PART A

DIRECT TAXES

1. Tax rates of income tax for assessment year 2014-15

1.1 Tax rates applicable for individual, HUF, AOP/BOI, other artificial person: Income tax rates for assessment year 2014-15 are as under—

***1.1—a Senior citizens*:** In the case of every individual, *being a resident in India, who is of the age of 60 years* or more at any time during the previous year but less than 80 years on the last day of the previous year,—

Total income	*Amount of tax*	*Surcharge*	*E.C+ S.H.E. Cess*
Upto Rs. 2,50,000	*Nil*	*Nil*	*Nil*
> Rs. 2,50,000 but upto Rs. 5,00,000	10% of (total income *less* Rs. 2,50,000)	*Nil*	3% of income tax.
> Rs. 5,00,000 but upto Rs. 10,00,000	Rs. 25,000 + 20% of (total income *less* Rs. 5,00,000)	*Nil*	3% of income tax.
> of Rs. 10,00,000	Rs. 1,25,000 + 30% of (total income *less* Rs. 10,00,000)	♦ If total income does not exceed Rs. 1 crore, surcharge will be *nil.* ♦ If total income exceeds Rs. 1 crore, *Surcharge @ 10% of tax amount. But subject to marginal relief.*	3% of (Income tax + Surcharge—Marginal relief).

***1.1—b Very senior citizens*:** In the case of every individual, *being a resident in India, who is of the age of 80 years* or more at any time during the previous year,—

Total income	*Amount of tax*	*Surcharge*	*E.C+ S.H.E. Cess*
Upto Rs. 5,00,000	*Nil*	*Nil*	*Nil*
> Rs. 5,00,000 but upto Rs. 10,00,000	20% of (total income *less* Rs. 5,00,000)	*Nil*	3% of income tax.
> of Rs. 10,00,000	Rs. 1,00,000 + 30% of (total income *less* Rs. 10,00,000)	♦ If total income does not exceed Rs. 1 crore, surcharge will be *nil.* ♦ If total income exceeds Rs. 1 crore, *Surcharge @ 10% of tax amount. But subject to marginal relief.*	3% of (Income tax + Surcharge—Marginal relief).

***1.1—c Other cases*:** In the case of every individual other than the above individual or HUF or AOP or BOI, or every artificial juridical person—

Total income	*Amount of tax*	*Surcharge*	*E.C+ S.H.E. Cess*
Upto Rs. 2,00,000	*Nil*	*Nil*	*Nil*
> Rs. 2,00,000 but upto Rs. 5,00,000	10% of (total income *less* Rs. 2,00,000)	*Nil*	3% of income tax.

> Rs. 5,00,000 but upto Rs. 10,00,000	Rs. 30,000 + 20% of (total income *less* Rs. 5,00,000)	*Nil*	3% of income tax.
> of Rs. 10,00,000	Rs. 1,30,000 + 30% of (total income *less* Rs. 10,00,000)	♦ If total income does not exceed Rs. 1 crore, surcharge will be *nil.* ♦ If total income exceeds Rs. 1 crore, *Surcharge @ 10% of tax amount. But subject to marginal relief.*	3% of (Income tax + Surcharge—Marginal relief).

1.1—*d* Rebate of up to Rs.2,000 for resident individuals having total income of up to Rs. 5 lakh [New Section 87A]

♦ For providing tax relief to the resident individual tax payers who are in the 10% tax slab, section 87A has been inserted to provide a rebate from the tax payable by him if his total income does not exceed Rs. 5,00,000.

♦ The rebate amount will be Rs. 2,000 or amount of income-tax payable on the total income (which does not exceed Rs. 5 Lakh) for any assessment year, whichever is less.

1.1—d-p [Problem based on provision]: The gross total income of Mr. Ramesh (a resident, aged 30 years) for the P.Y.2013-14 is 5,35,000 which includes salary of Rs.5,28,000 and interest on savings bank Rs.7,000. He also pays premium of Rs. 32,000 for life insurance of himself. Compute his tax liability.

Solution:

Computation of total income tax of Mr. Ramesh for the A.Y. 2014-15

(Amount in Rs.)

Income from 'salary'		5,28,000
Income from 'other sources'		7,000
	Gross total income	5,35,000
Less: Deductions of Chapter VI-A:		
Deduction under section 80C : For insurance premium		32,000
Deduction under section 80TTA: Interest on saving bank		7,000
	Total income or taxable income	4,96,000
Tax on total income		29,600
Less: Relief under section 87A		2,000
		27,600
EC + SHEC @ 3% of 27,600		828
	Total tax liability	28,428

1.2—Tax rates applicable in case of a co-operative society: In the case of a co-operative society, tax rates are as under—

Total income	*Amount of tax*	*Surcharge*	*E.C+ S.H.E. Cess*
Upto Rs. 10,000	10% of total income	*Nil*	3% of income tax.
> Rs. 10,000 but upto Rs. 20,000	Rs. 1,000 + 20% of (total income *less* Rs. 10,000)	*Nil*	3% of income tax.
> Rs. 20,000	Rs. 3,000 + 30% of (total income *less* Rs. 20,000)	♦ If total income does not exceed Rs. 1 crore, surcharge will be *nil.* ♦ If total income exceeds Rs. 1 crore, *Surcharge @ 10% of tax amount. But subject to marginal relief.*	3% of (Income tax + Surcharge—Marginal relief).

1.3— Tax rates applicable for Firms, LLPs and Local Authorities: For these persons, tax rates are as under—

Normal rate of tax	:	**30%**
Surcharge—		
♦ *If total income DOES NOT exceed Rs. 1 crore*	:	*Nil*
♦ *If total income EXCEEDS Rs. 1 crore*	:	**10%** of tax; [But subject to Marginal Relief]
EC + SHEC	:	**3%** of (Income tax+ Surcharge—Marginal Relief)

1.4— Tax rates applicable to a Domestic Company: For domestic company, tax rates are as under—

Normal rate of tax	:	**30%**
Surcharge—		
♦ *If total income DOES NOT exceed Rs.1 crore*	:	*Nil*
♦ *If total income EXCEEDS Rs.1 crore BUT does not exceed Rs.10 crore*	:	**5%** of tax; [But subject to Marginal Relief]
♦ *If total income EXCEEDS Rs. 10 crore*	:	**10%** of tax; [But subject to Marginal Relief]
EC + SHEC	:	**3%** of (Income tax+ Surcharge—Marginal Relief)

1.5— Tax rates applicable to a Foreign Company: For foreign company, tax rates are as under—

Normal rate of tax	:	**40%**
Surcharge—		
♦ *If total income DOES NOT exceed Rs.1 crore*	:	*Nil*
♦ *If total income EXCEEDS Rs.1 crore BUT does not exceed Rs.10 crore*	:	**2%** of tax; [But subject to Marginal Relief]
♦ *If total income EXCEEDS Rs. 10 crore*	:	**5%** of tax; [But subject to Marginal Relief]
EC + SHEC	:	**3%** of (Income tax+ Surcharge—Marginal Relief)

1.6— Special tax rates (i.e. rates specified by Income Tax Act) applicable in assessment year 2014-15 : *Selected cases only—*

1. Short term capital gain referred to in section 111A	*: 15%*
2. Long term capital gain referred to in section 112	*: 20%*
3. Casual incomes (*e.g.* Lottery, horse winnings, other games etc.) referred to in section 115BB	*: 30 %*

Note: Surcharge, if any, education cess and secondary higher education cess will be extra.

1.7— Marginal Relief: To avoid hardship in case of taxpayer whose income is slightly higher than the amount on which surcharge is applicable, a provisions has been made to provide for relief in marginal cases.

♦ *Calculation of Marginal Relief in case of non-company assessees:* In case of an assessees (not being a company) having a total income exceeding Rs.1 crore marginal relief is provided to ensure that the excess of income tax (+surcharge) on actual total income over income tax on income of Rs.1 crore [*such 'excess' is herein after called as 'tax difference'*] shall be limited to the excess of actual total income over Rs.1 crore [*such 'excess' is herein after called as 'income difference'*]. For the **Assessment Year 2014-15** marginal relief will be allowed as under—

Situation	***Amount of Marginal Relief***
1. 'Tax difference' is MORE than 'Income difference' ***Where—*** ♦ *'Tax difference' means, Tax (+Surcharge) on total income minus tax on Rs.1 crore* ♦ *'Income difference' means, actual total income minus Rs. 1 crore.*	*'Tax difference' minus 'Income difference'*
2. 'Tax difference' is LESS than the 'Income difference'	*No marginal relief*

♦ *Calculation of Marginal Relief in case of companies having income exceeding Rs.1 crore but not exceeding Rs.10 crore:* In case of an assessees being a company having actual total income exceeding Rs.1 crore but not exceeding Rs.10 crore, marginal relief is provided to ensure that the excess of income tax (+surcharge at the rate of 5%) on actual total income over income tax on income of Rs.1 crore [*such 'excess' is herein after called as 'tax difference'*] shall be limited to the excess of actual total income over Rs.1 crore [*such 'excess' is herein after called as 'income difference'*]. For the **Assessment Year 2014-15** marginal relief will be allowed as under—

Situation	***Amount of Marginal Relief***
1. 'Tax difference' is MORE than 'Income difference' ***Where—*** ♦ *'Tax difference' means, Tax (+Surcharge at the rate of 5%) on actual total income minus tax on Rs.1 crore* ♦ *'Income difference' means, actual total income minus Rs. 1 crore.*	*'Tax difference' minus 'Income difference'*
2. 'Tax difference' is LESS than the 'Income difference'	*No marginal relief*

e.g. —

Total income	*Income tax + SC on actual total income @31.5%*	*Income tax on Rs.1 crore @30%*	*Excess of tax (+SC)on actual total income over tax on Rs.1 crore i.e. (B) – (C) [i.e. Tax difference]*	*Excess of total income over Rs. 1 crore [i.e. Income difference]*	*Amount of Marginal Relief (D)– (E)*	*Tax payable after marginal relief (B) – (F),*
(A)	*(B)*	*(C)*	*(D)*	*(E)*	*(F)*	*(G)*
1,01,00,000	31,81,500	30,00,000	1,81,500	1,00,000	81,500	31,00,000
1,03,00,000	32,44,500	30,00,000	2,44,500	3,00,000	*Nil*	32,44,500
1,04,00,000	32,76,000	30,00,000	2,76,000	4,00,000	*Nil*	32,76,000

♦ *Calculation of Marginal Relief in case of companies having income exceeding Rs.10 crore:* In case of an assessees being a company having actual total income exceeding Rs.10, marginal relief is provided to ensure that the excess of income tax (+surcharge at the rate of 10%) on actual total income over income tax (+surcharge at the rate of 5%) on income of Rs.10 crore [*such 'excess' is herein after called as 'tax difference'*] shall be limited to the excess of actual total income over Rs.10 crore [*such 'excess' is herein after called as 'income difference'*].

For the **Assessment Year 2014-15** marginal relief will be allowed as under—

Situation	Amount of Marginal Relief
1. *'Tax difference' is MORE than 'Income difference'* ***Where—*** ♦ *'Tax difference' means, Tax (+Surcharge at the rate of 10%) on actual total income minus tax (+Surcharge at the rate of 5%) on Rs.10 crore* ♦ *'Income difference' means, actual total income minus Rs. 10 crore.*	*'Tax difference' minus 'Income difference'*
2. *'Tax difference' is LESS than the 'Income difference'*	*No marginal relief*

e.g. —

Total income	*Income tax + SC on actual total income @33%*	*Income tax + SC on Rs.10 crore @31.5%*	*Excess of tax (+SC) on actual total income over tax (+SC) on Rs.10 crore i.e.— (B) – (C) [i.e. Tax difference]*	*Excess of actual total income over Rs. 10 crore [i.e. Income difference]*	*Amount of marginal relief i.e— (D)– (E)*	*Tax payable after marginal relief i.e.— (B) – (F),*
(A)	*(B)*	*(C)*	*(D)*	*(E)*	*(F)*	*(G)*
10,01,00,000	3,30,33,000	3,15,00,000	15,33,000	1,00,000	14,33,000	3,16,00,000
10,20,00,000	3,36,60,000	3,15,00,000	21,60,000	20,00,000	1,60,000	3,35,00,000
10,30,00,000	3,70,80,000	3,15,00,000	24,90,000	30,00,000	*Nil*	3,70,80,000

2. Raising the limit of percentage of eligible premium for life insurance policies of persons with disability or disease [Section 10(10D) and Sec. 80C]

2.1 *EXISTING PROVISION:* Existing provisions of section 10(10D), *inter-alia,* provides that any sum received under a life insurance policy (including bonus on such policy), is exempt from tax. However, this exemption is subject to the condition that the premium paid for such policy does not exceed 10% of the 'actual capital sum assured'.

Similarly as per the existing provisions contained in section 80C(3A), the deduction under this section is available in respect of any premium paid on an insurance policy. However, this deduction is limited to 10% of the 'actual capital sum assured'.

Many a times, the premium on insurance policies taken for persons with disability or suffering from specified diseases exceeds 10% of the actual capital sum assured and thereby the sum received under these policies would become taxable. Further, deduction under section 80C(3A) would also be restricted to 10% of minimum sum assured.

2.2 *PROVISION AFTER AMENDMENT:* After amendment, section 10(10D) provides that any sum (including bonus) which is received under an insurance policy issued on or after 01.04.2013 for the insurance on the life of any person who is—

(*i*) a person with disability or a person with severe disability as referred to in section 80U, or

(*ii*) suffering from disease or ailment specified made under section 80DDB,

shall be exempt if the premium payable for any of the years during the term of the policy does not exceed **15%** of the actual capital sum assured.

Also, the limit prescribed by section 80C(3A) is increased from existing 10% of sum assured to 15% of sum assured in respect of premium on insurance policies taken for the persons with disability or suffering from specified diseases amended.

To sum up, the legal provision before and after the amendment is shown by the Table given below—

Date of issuance of policy	*Policy taken on the life of person mentioned in para 2.2 above [i.e. disabled person]*	*Policy on the life any other person*
(1)	*(2)*	*(3)*
❒ Before 1.4.2003	No limit	No limit
❒ On or after 1.4.2003 but before 1.4.2012	20% of sum assured	20% of sum assured
❒ During 2012-13	10% of sum assured	10% of sum assured
❒ On or after 1.4.2013	15% of sum assured	10% of sum assured

Note: Sum assured excludes any premium agreed to be returned or any benefits to be given by way of bonus.

Thus—,

♦ ***Exemption*** under section 10(10D) will be available ONLY IF the annual premium paid on an insurance policy does not exceed the percentage (%) of sum assured mentioned in *column (2)* and *(3)* of above table; and

♦ ***Deduction*** under section 80C(3A) will be available ONLY UPTO the percentage (%) of sum assured mentioned in *column (2)* and *(3)* of above table.

3. Keyman insurance policy would continue to be keyman insurance policy even after it is assigned to the employee [Section 10(10D)]

3.1 *EXISTING PROVISION:* The existing provisions of section 10(10D), *inter alia*, exempt any sum received under a life insurance policy other than a Keyman insurance policy. Explanation 1 of said section defines 'keyman insurance policy' to means a life insurance policy taken by a person on the life another person who is or was the employee of the first-mentioned person is or was connected in any manner whatsoever with the business of first-mentioned person.

A keyman insurance policy may be assigned to the keyman (*i.e.* the employee) before its maturity. After assignment, the insurance premium is paid by the keyman.

At the time of maturity, the exemption of section 10(10D) is claimed by the keyman on ground that the policy is no longer 'keyman insurance policy' but after assignment it becomes an ordinary life insurance policy.

The Delhi High Court in ***CIT* v. *Rajan Nanda* [2012]** 205 Taxman 138, has held that once there is an assignment of keyman insurance policy by an employer-company to its employee, insurance policy gets converted into an ordinary policy and in that case, maturity value received by an employee would not be subjected to tax but exemption under section 10(10D) can be claimed thereon.

3.2 *PROVISION AFTER AMENDMENT:* With a view to stop such practices of tax avoidance and to supersede the said ruling, provisions of section 10(10D) are amended to provide that a 'keyman insurance policy' which has been assigned to any person during its term, with or without consideration, shall continue to be treated as a 'keyman insurance policy'.

3.3 *APPLICABILITY OF AMENDMENT:* The above amendment will take effect from 1.4.2014 and will, accordingly, apply in relation to assessment year 2014-15 and subsequent assessments years.

4. Exemption of income of 'Securitisation trust' [Newly inserted Section 10(23DA)]

4.1 *NEW SECTION:* As per provisions of section 161, the income of a trust is taxed at the maximum marginal rate if such income consists of or includes profits and gains of business of such trust. Due to this, the special purpose entities which are set up in the form of trust to undertake securitisation activities, are facing problem.

In order to facilitate the securitisation process, a special taxation regime has been provided in respect of taxation of income of securitisation entities, set up as a trust, from the activity of securitisation. Accordingly, a new clause (23DA) has been inserted in section 10 *w.e.f.* A.Y. 2014-15. Apart from this, a new Chapter XII-EA (comprising sections 115TA, 115TB and 115TC) for providing a special tax regime has been introduced into Income tax-act *w.e.f.* 1.6.2013.

4.2 *SALIENT FEATURES OF SPECIAL REGIME:* The salient features of the special regime are—

- *Meaning of securitization trust* – It means a trust which is a 'Special Purpose Distinct Entity' or 'Special Purpose Vehicle'. For this purpose—

♦ ***'Special Purpose Distinct Entity' [SPDE] means***	It means: → a trust which acquires debt or receivables out of funds mobilized by it by issuance of **securitised debt instruments** through one or more schemes, and includes → any trust set up by the National Housing Bank or by the NABARD. For this purpose, "*securitised debt instrument*" means any certificate or instrument, by whatever name called, issued to an investor by any issuer being a SPDE which possesses any debt or receivable, including mortgage debt, assigned to such entity, and acknowledging beneficial interest of such investor in such debt or receivable including mortgage debt, as the case may be;
♦ ***'Special Purpose Vehicle' [SPV] means***	It means any company, trust, or other entity constituted or established for a specific purpose and : (*a*) activities of which are limited to those for accomplishing the purpose of the company, trust or other entity as the case may be; and (*b*) which is structured in a manner intended to isolate the corporation, trust or entity as the case may be, from the credit risk of an originator to make it bankruptcy remote.

- *Exemption of incomes of Securitization trust*– The income from the activity of securitization of the above securitization trusts will be exempt from tax by virtue of section 10(23DA).

- *Income Distribution Tax (IDT) [Section 115TA]*– The trust will be liable to pay additional income tax income distributed to its investors as under :

Category of investor (i.e. recipient of income)	***Basic rate of IDT***	***Rate of IDT including SC+EC***
♦ Any person in whose hands any income is exempt from tax like Mutual Funds	Nil	Nil
♦ Individual/HUF	25%	28.325%
♦ Any other recipient	30%	33.99%

- *Deposit of IDT:* Such tax has to be deposited into the credit of Central Government within 14 days from the date of distribution or payment, whichever is earlier.

  The person responsible for making payment of the income distributed by the securitization trust is also required to furnish to the prescribed income-tax authority, on or before 15th September in each year, a statement in the prescribed form [*Form No. 63AA*] and verified in the prescribed manner, giving the following details –

  (*1*) Amount of income distributed to investors during the previous year;
  (*2*) The tax paid thereon; and
  (*3*) Other relevant details which are prescribed.

- *Interest for late/non-deposit of IDT [Section 115TB]:* The securitisation trust will be liable to pay simple interest on the amount of additional income-tax not paid within said14 days. Such interest is leviable at the rate of 1% for every month or part of the month on the amount of such tax not paid or short paid for the period beginning on the date immediately after the last date on which such tax was payable and ending with the date on which the tax is actually paid.

- *Assessee in default [Section 115TC]:* The person responsible for payment of income distributed by the securitization trust and the securitization trust will be deemed to be an assessee-in-default in respect of amount of tax payable by him or it, in case the additional income-tax is not paid to the credit of Central Government. In such a case, all the provisions of the Act for the collection and recovery of income-tax would apply.
- *Exemption to the investor [Section 10(35A)]:* Consequent to the levy of distribution tax, the distributed income received by the investor will be exempt by virtue of section 10(35A).

5. Exemption to income of 'Investor Protection Fund' of Depositories [Newly inserted Section 10(23ED)]

5.1 *NEW SECTION:* After amendments of the SEBI (Depositories and Participants) Regulations, 1996, (effected in the year 2012), it is now compulsory for depositories to set up an Investor Protection Fund.

♦ "Depository" means a company formed and registered under the Companies Act, 1956 and which has been granted a certificate of registration under section 12(1A) of the SEBI Act, 1992.

♦ Under section 10(23EA), income by way of contributions from a recognised stock exchange received by an Investor Protection Fund set up by the recognised stock exchange is exempt from taxation.

♦ In line with section 10(23EA), the Finance Act, 2013 has inserted section 10(23ED) to provide that any income, by way of contribution from a depository, of such Investor Protection Fund set up by a depository in accordance with the regulations made under the SEBI Act, 1992 and the Depositories Act, 1996, will not be included while computing the total income of such investor protection fund.

The Central Government, would, by way of notification in the Official Gazette, specify such investor protection funds set up by depositories in accordance with the SEBI and depositories regulations.

♦ However, where any amount standing to the credit of the fund and not charged to income-tax during any previous year is shared wholly or partly with a depository, the amount so shared shall be deemed o be the income of the previous year in which such amount is shared. Accordingly, such amount would be chargeable to income-tax.

5.2 *APPLICABILITY:* The above amendment will take effect from 1.4.2014 and will, accordingly, apply in relation to assessment year 2014-15 and subsequent assessments years.

6. Alternative Investment Funds (AIFs) recognised by SEBI to enjoy 'pass through' status [Newly inserted Section 10(23FB)]

6.1 *EXISTING PROVISION:* Existing provisions of section 10(23FB) of the Income-tax Act provide that any income of a Venture Capital Company (VCC) or Venture Capital Fund (VCF) from investment in a Venture Capital Undertaking (VCU) shall be exempt from taxation. Section 115U of the Income-tax Act provides that income accruing or arising or received by a person out of investment made in a VCC or VCF shall be taxable in the same manner as if the person had made direct investment in the VCU.

These sections provide a 'tax pass through status' (*i.e.* income is taxable in the hands of investors instead of VCF/VCC) only to the funds which satisfy the investment and other conditions as are provided in SEBI (Venture Capital Fund) Regulations, 1996. Further the pass through status is available only in respect of income which arises to the **fund** from investment in VCU, **being a company** which satisfies the conditions provided in SEBI (VCF) Regulations, 1996.

The SEBI (Alternative Investment Funds) Regulations, 2012 (AIF regulations) have replaced the SEBI (Venture Capital Fund) Regulations, 1996 (VCF regulations) from 21st May, 2012.

In order to provide benefit of pass through to similar venture capital funds as are registered under new regulations and subject to same conditions of investment restrictions in the context of investment in a venture capital undertaking, section 10(23FB) is amended so as to provide that–

♦ The existing VCFs and VCCs (*i.e.* which have been registered before 21/05/2012) and are regulated by the VCF regulations, as they stood before repeal by AIF regulations, would continue to avail pass through status as currently available.

♦ In the context of *AIF regulations*, the *Venture Capital Company* shall be defined as a company and *Venture capital fund* shall be defined as a *fund set up as a trust*, which has been granted *a certificate of registration* as *Venture Capital Fund being a sub-category of Category I Alternative Investment Fund and satisfies the following conditions—*

Condition 1	That at least two-thirds of its investible funds are invested in unlisted equity shares or equity linked instruments of venture capital undertaking.
Condition 2	No investment has been made by such AIFs in a VCU which is an associate company.
Condition 3	Units of a trust set up as AIF or shares of a company set up as AIF, are not listed on a recognised stock exchange.

♦ In the context of AIF regulations, the Venture Capital Undertaking shall be defined as it is defined in the Alternative Investment Funds Regulations.

6.2 *APPLICABILITY:* The above amendment will take retrospective effect from 1.4.2013 and will, accordingly, apply in relation to assessment year 2013-14 and subsequent assessments years.

7. Income of shareholder on account of 'buy-back' will be exempt if company pays tax on such buy-back under section 115QA [Newly inserted Section 10(34A)]

Income arising to a shareholder in respect of buy-back of unlisted shares by the company will be exempt from tax under section 10(34A) from the assessment year 2014-15. This exemption is, however available only in those cases where additional income-tax is payable on distributed income under section 115QA by the company opting for buy-back of unlisted shares.

8. Distributed income referred to in section 115TA will be exempt in the hands of recipient investor [Newly inserted Section 10(35A)]

Any income received by a investor from a securitization trust will be exempt under section 10(35A) from the assessment year 2014-15. The exemption is, however available only in respect of distributed income referred to in section 115TA.

9. Scope of exemption of income received in India in foreign currency by a foreign company is extended [Section 10(48)]

Section 10(48) gives exemption in respect of any income received in India in Indian currency by a foreign company on account of sale of crude oil to any person in India, if a few condition are satisfied. The scope of section 10(48) has been enlarged. With effect from the assessment year 2014-15, section 10(48) will also include income on account of sale of any other goods or rendering of service as notified by the central government.

10. Exemption of income of National Financial Holding Company [Section 10(49)]

The Specified Undertaking of Unit Trust of India (SUUTI) was created *vide* the Unit Trust of India (Transfer of Undertaking and Repeal) Act, 2002 as the successor of Unit Trust of India (UTI). Exemption from Income-tax was available to SUUTI in respect of its income up to 31st March, 2014.

SUUTI has been wound up and is succeeded by a new company wholly owned by the Central Government. It has been incorporated on 7th June, 2012 as National Financial Holdings Company Limited (NFHCL).

In order to provide the exemption on the lines of SUUTI to NFHCL, section 10 has been amended so as to grant exemption to NFHCL in respect of its income accruing, arising or received on or before 31.03.2014.

This amendment will take effect *retrospectively* from 1st April, 2013 and will, accordingly, apply in relation to the assessment year 2013-14 and assessment year 2014-15.

11. Deduction on purchase of new machinery or plant (i.e. Investment Allowance) [New Section 32AC]

This section provides as under—

11.1 *ELIGIBLE ASSESSEE:* This deduction is allowed to an assessee being a *company*,—

- ♦ which is engaged in the business of manufacture of an article or thing; and
- ♦ such company invests a sum of more than Rs.100 crore in new assets (plant or machinery) between 1.4.2013 to 31.3.2015.

11.2 *AMOUNT OF DEDUCTION:* Amount of deduction will be as under—

A.Y . 2014-15	***Conditions:*** ♦ A new assets is acquired and installed during the financial year 2013-14. ♦ Actual cost of such new assets *exceeds* Rs. 100 crore. ***Deduction:*** 15% of actual cost of such asset.
A.Y. 2015-16	***Conditions:*** ♦ A new assets is acquired and installed between 1.4.2013 to 31.3.2015. ♦ Actual cost of these new assets (aggregate of both years) *exceeds* Rs. 100 crore. ***Deduction:*** 15% of cost of asset acquired between 1.4.2013 to 31.3.2015 *minus* deduction allowed for assessment year 2014-15 (if any).

11.3 *MEANING OF 'NEW ASSET':* For the purpose of this section "New asset" means new plant or machinery but does not include—

- ♦ any plant or machinery which was used either within or outside India by any other person;
- ♦ any plant or machinery installed in any office premises or any residential accommodation;
- ♦ any office appliances including computers or computer software;
- ♦ any vehicle, ship or aircraft; or
- ♦ any plant or machinery, the whole of the actual cost of which is allowed as deduction (whether by way of depreciation or otherwise) under PGBP head.

11.4 *RESTRICTION ON SALE OF 'NEW ASSET':* If such new asset is sold or otherwise transferred, within a period of five years from the date of its installation, the amount of deduction allowed under this section shall be deemed to be the income of the assessee of the previous year of such sale. However, such new asset can be transferred under amalgamation or demerger. But then, the restriction will apply to amalgamating/resulting company.

Note: The investment allowance@15% under this section is in addition to:

☑ the *normal depreciation* referred to in section 32(1) and

☑ *additional depreciation* referred to in section 32(1)(*iia*).

Further, the investment allowance would not be reduced to arrive at the written down value of plant and machinery.

11.5 ***[Problem based on provision]*** Based on the following information, you are required to compute the 'investment allowance' under section 32AC for A.Y. 2014-15 and A.Y. 2015-16

Type of assessee	Amount of investment made (in crore)	
	P.Y. 2013-14	P.Y. 2014-15
ABC & Co. LLP	120	-
A LTD.	20	70
B LTD.	20	90
C LTD.	-	90
D LTD.	-	110
E LTD.	150	20

Solution

Computation of 'investment allowance' under section 32AC for A.Y. 2014-15 and A.Y. 2015-16 is as under:

Type of assessee	Amount of 'Investment Allowance' *i.e.* I.A. (in crore)	
	P.Y. 2013-14	P.Y. 2014-15
ABC & Co. LLP	Nil ['I.A.' is not available to LLPs]	Nil ['I.A.' is not available to LLPs]
A LTD.	Nil [Since investment does not exceed Rs.100 cr.]	Nil [Since investment does not exceed Rs.100 cr.]
B LTD.	Nil [Since investment does not exceed Rs.100 cr.]	Rs.16.50 cr. [i.e. 15% of Rs.110 cr.]
C LTD.	Nil [Since investment does not exceed Rs.100 cr.]	Nil [Since investment does not exceed Rs.100 cr.]
D LTD.	Nil [Since no investment is made]	Rs.16.50 cr. [i.e. 15% of Rs.110 cr.]
E LTD.	Rs.22.50 cr. [i.e. 15% of Rs.150 cr.]	Rs.3 cr. [i.e. 15% of Rs.170 cr. less 22.50 cr.] or [directly 15% of 20 cr.]

11.6 *[Problem based on provision]* A Ltd. is engaged in manufacturing of floor tiles. It has acquired the following assets during the F.Y. 2013-14:

Type of asset	Details of assets	
	Cost (Rupees in Lakhs)	Date of purchase (date of put to use)
Furniture (10%)	10	1.9.2013 (10.10.2013)
Computer for office (60%)	50	1.9.2013 (Immediate)
Road transport vehicle (15%)	30	1.2.2014 (Immediate)
Plant and Machinery (15%)	120	1.2.2014 (Immediate)

Opening W.D.V of the 'block of assets' is as under:

- ♦ Furniture (10%) : Rs. 20 Lakh
- ♦ Computer and computer software (60%) : Rs. 80 Lakh
- ♦ Plant and machinery (15%) : Rs. 200 Lakh

Based on the above information, you are required to compute the amount of normal depreciation, additional depreciation (if any) and amount of 'investment allowance' (if any) under section 32AC for A.Y. 2014-15 as well as for A.Y. 2015-16. Assume no asset has been purchased during F.Y. 2014-15.

Solution

Computation of normal depreciation, additional depreciation and 'investment allowance' for A.Y. 2014-15

(Rs. in Lakhs)

Particulars	Block-1 (Furniture-10%)	Block-2 (Plant & Mach-60%)	Block-3 (Plant & Mach-15%)
Opening WDV	20	80	200

Additions	10	50	150
Deductions	-	-	-
W.D.V (A)	30	130	350
Normal dep. (B)	2.5 [*i.e.*10% of 20 + 5% of 10]	78 [*i.e.* 60% of 130]	41.25 [*i.e.*15% of 200 + 7.5% of 150]
Additional dep. (C)	-	-	12 [*i.e.*10% of 120]
Closing WDV [A-B-C]	**27.5**	**52**	**296.75**
Investment All.	-	-	18 [*i.e.*15% of 120]

Notes—

1. As per section section 32(1)(iia), additional depreciation is not allowed on furniture, computer and vehicle.
2. Additional dep. on new plant and machinery will be allowed @ 10%, since days put to use are less than 180.
3. Investment allowance will not be allowed on road transport vehicles. Once an asset is 'eligible' for investment allowance, it will be given at 15% rate even if such asset is put to use for less than 180 days.

Computation of normal depreciation, additional depreciation and 'investment allowance' for A.Y. 2015-16

(Rs. in Lakhs)

Particulars	Block-1 (Furniture-10%)	Block-2 (Plant & Mach-60%)	Block-3 (Plant & Mach-15%)
Opening WDV	27.5	52	296.75
Additions	-	-	-
Deductions	-	-	-
W.D.V (A)	27.5	52	296.75
Normal dep. (B)	2.75	31.20	44.5125
Additional dep. (C)	-	-	-
Closing WDV [A-B-C]	**24.75**	**20.8**	**252.2375**
Investment All.	-	-	-

11.7 *APPLICABILITY:* This amendment will take effect from 1.4.2014 and will, accordingly, apply in relation to assessment year 2014-15 and subsequent assessments years.

12. While calculating deduction under section 36(1)(*vii*), the credit balance for provision for bad and doubtful debts' will be considered fully irrespective of rural or urban advances [Section 36(1)(*viia*)]

12.1 *EXISTING DEDUCTION FOR PROVISION FOR BAD DEBTS:* Section 36(1)(*viia*) provides deduction in respect of any provision made for bad and doubtful debts in case of certain banks and financial institutions upto the limits specified therein;

The deduction under this clause is as under—

(*a*)	(*b*)	(*c*)
In case of scheduled banks or non scheduled banks* (other than foreign bank)	***In case of foreign bank***	***In case of public financial institution or a State financial corporation or a State industrial investment corporation***
Amount of deduction = (i) 7.5% of the total income* ***plus*** (ii) 10% of aggregate average advances made by its Rural Branches (rule 6ABA)	**Amount of deduction =** 5% of the total income*	**Amount of deduction =** 5% of the total income*.

*Computed before making any deduction under this clause and chapter VI-A.

12.2 *EXISTING DEDUCTION FOR BAD DEBTS WRITTEN OFF:* The proviso to clause (*vii*) of section 36(1) provides that for an assessee, to which clause (*viia*) applies [*i.e.* banks etc.], deduction under said clause (*vii*) shall be limited to the amount by which the bad debt written off exceeds the credit balance in the provision for bad and doubtful debts account made under clause (*viia*).

Thus, in case of banks and financial institutions referred above, a deduction for bad debts written off in their books of accounts is also allowed as under—

	(Rs.)
Total amount written off as irrecoverable under section 36(1)(*vii*)	××××
***Less:* Amount of provision made under section 36(1)(*viia*)**	(××××)
Deduction for 'bad debts'	××××

12.3 *SUPREME COURT'S VIEW:* The Supreme Court has discussed the scope of proviso to section 36(1)(*vii*) in the case of ***Catholic Syrian Bank Ltd.* v. *CIT*** [2012] 206 Taxman 182. In this case, the Court held that the proviso to section 36(1)(*vii*) applies only to provision made for bad and doubtful debts relating to rural advances.

Apex Court further held that if the amount of bad debt actually written off in the accounts of a bank represented only debts arising out of urban advances, the same would be allowed as deduction under section 36(1)(vii). It will not be affected by the provision for bad and doubtful debts relating to rural branches.

It has also been interpreted that there are separate accounts in respect of provision for bad and doubtful debt under clause (*viia*) for rural advances and urban advances and if the actual write off of debt relates to urban advances, then, it should not be set off against provision for bad and doubtful debts made for rural advances. There is no such distinction made in clause (*viia*) of section 36(1).

12.4 *AMENDMENT:* The above ruling has been superseded by amending section 36(1)(vii) with effect from the assessment year 2014-15. **Explanation 2** has been inserted in section 36(1)(vii) to provide that the amount of deduction in respect of the bad debts actually written off under section 36(1)(vii) shall be limited to the amount by which such bad debts exceeds the credit balance in the provision for bad and doubtful debts account made under section 36(1)(*viia*) without any distinction between rural advances and other advances.

12.5 *APPLICABILITY:* This amendment will take effect from 1.4.2014 and will, accordingly, apply in relation to assessment year 2014-15 and subsequent assessments years.

12.6 ***[Problem based on provision]:*** Find out the amount deductible under section 36(1)(vii)/ (viia) in a case of schedule bank (not being a foreign bank) for the assessment year **2013-14** –

		Urban area	Rural area
Provisions for bad and doubtful debt account on the first day of previous year		Nil	Nil
Aggregate rural advances made by rural branches	(a)	-	600
Business income [before claiming deduction under section 36(1)(viia) and chapter VI-A]	(b)	1,720	(-)520
Amount written off as bad debt in books of account for the purpose of section 36(1)(vii)	(c)	132	-

Solution

		Urban area	Rural area
Amount deductible under section 36(1)(viia) [i.e, 10% of Rs. 600 crore + 7.5% of (Rs. 1720 crore - Rs. 520 crore)]	(d)	90 [Only 7.5% of total income because rural advances cannot be considered]	60 [Only 10% of rural advances; 7.5% of total income cannot be considered again]

Amount deductible under section 36(1)(viia) [i.e, to the extent (c) exceeds (d)]		22	Nil

12.7 *[Problem based on provision] :* In the above problem find out the amount of deduction under section 36(1)(vii)/(viia) if the assessment year is **2014-15**.

Solution: The ruling of Supreme Court in the case of Catholic Syrain Bank Ltd. has been superseded by amending section 36(1)(vii) with effect from the assessment year 2014-15. The amount deductible for the assessment year 2014-15 will be as follows –

(Rs. in crore)

		Urban area	Rural area	Total
Amount deductible under section 36(1)(viia) [i.e., 10% of Rs. 600 crore + 7.5% of (Rs. 1720 crore – Rs. 520 crore)]	(d)	90	60	150
Amount deductible under section 36(1)(vii) [i.e., to the extent (c) exceeds total of the (d)]		-	-	Nil

12.8 *[Problem based on provision]:* Punjab National Bank (scheduled bank) furnishes the following information—

Particulars	**Rs. (In lakh)**
Opening Balance : Provision for bad and doubtful debts as on first day of the P.Y.	200
Gross Total Income for the A.Y. 2014-15 [before claiming deduction under section 36(1)(viia)]	1600
Aggregate Average Advances made by various Rural Branches of the bank	600
Amount of bad debts written off (for the first time) in the books of accounts for the purpose of 36(1)(vii) during the previous year—Relating to urban advances	420

Based on the above information, calculate amount of deduction allowable under section 36.

Solution

Particulars		**Rs. (In lakh)**
Bad debts written off in the books of accounts for the purpose of 36(1)(vii)		420
Less : Credit balance in the "provision for bad and doubtful debts" under section 36(1)(viia) as on last day of the previous year—		
♦ Opening	200	
♦ Current year provision for bad and doubtful debts under section 36(1)(viia) [7.5% of Rs.1600 + 10% of Rs. 600]	180	380
Deduction under section 36(1)(vii) in respect of bad debts written off for A.Y. 14-15		**40**

13. Deduction for Commodities Transaction Tax (CTT) is allowed while computing income under the head PGBP [New section 36(1)(*xvi*)]

13.1 *NEW LEVY:* A new tax called Commodities Transaction Tax (CTT) is levied on taxable commodities transactions entered into in a recognised association.

Where, 'taxable commodities transaction' means a transaction of sale of commodity derivatives in respect of commodities (other than agricultural commodities) traded in recognised associations. The tax is levied at the rate, given in the Table below:

TABLE

S.No.	***Taxable commodities transaction***	***Rate***	***Payable by***
(1)	**(2)**	**(3)**	**(4)**
1.	Sale of commodity derivative	0.01 %	Seller

13.2 *CTT IS ALLOWED AS DEDUCTION UNDER PGBP:* Amendments have also been in section 36 of the Income-tax Act so as to provide that the amount of commodities transaction tax paid by the assessee shall be allowable as deduction while computing income under the head PGBP. This deduction is however, subject to a condition that the income arising from such taxable commodities transactions is included in the income computed under the head PGBP.

13.3 *APPLICABILITY:* This amendment will take effect from 1.4.2014 and will, accordingly, apply in relation to assessment year 2014-15 and subsequent assessments years.

14. Disallowance of royalty, licence fees etc. in case of State Govt. Undertakings [New section 40(a)(*iiv*)]

14.1 *BACKGROUND:* In past, State Governments have granted liquor distribution rights to private distributors against annual licence fees. But under this, there has been substantial tax evasion by manufacturers and private distributor. This evasion compelled State Governments to take over liquor distribution form private distributors to give distribution rights to newly set up State Government Undertakings. State Governments charged annual licence fees from these PSUs against grant of liquor distribution rights to them.

State Governments and their PSUs are separate entities. Amount charged from PSUs on account of annual licence fees is deductible in the hands of PSUs for tax purposes. In the hands of State Government, there is however, no income-tax liability. Moreover, the distribution of licence fees is not subject to dividend distribution tax, as licence fees is not distribution of dividend.

Section 40 has been amended by Finance Act, 2013 to tackle the aforesaid situation.

14.2 *INTRODUCTION OF NEW DISALLOWANCE CLAUSE IN SECTION 40:* New clause (*iib*) has been inserted in section 40(*a*) to provide that–

(1) any amount paid by way of royalty, licence fee, service fee, privilege fee, service charge, etc., which is levied exclusively on, or

(2) any amount appropriated, directly or indirectly, from

a State Government undertaking, by the State Government (SG), shall not be allowed as deduction while computing the income of such undertakings under the head PGBP.

14.3 *MEANING OF 'STATE GOVERNMENT UNDERTAKING':* For the above purpose, a State Government undertaking includes the following–

a. A corporation established by (or under) any Act of the State Government;
b. A company in which more than 50 per cent of the paid-up equity share capital is held by the State Government;
c. A company in which more than 50 per cent of the paid-up equity share capital is held by the above two entities (whether singly or taken together);
d. A company or corporation in which the State Government has the right to appoint the majority of the directors.
e. An authority, a board or an institution or a body established or constituted by or under Act of the State government or owned or controlled by the State Government.

14.4 *APPLICABILITY:* This amendment will take effect from 1.4.2014 and will, accordingly, apply in relation to assessment year 2014-15 and subsequent assessments years.

15. Trading in commodity derivatives is no more 'speculative transaction' [Amendment to Section 43(5)]

15.1 *AMENDMENT:* Section 43(5) has been amended by Finance Act, 2013 so as to provide that an eligible transaction in respect of trading in commodity derivatives carried out in a recognized association, shall not be treated as a speculative transaction.

For this purpose,

Eligible Transaction	means— ♦ any transaction carried out electronically on screen-based system ♦ through a member/intermediary registered for trading in commodity derivatives under Foward Contracts (Regulation) Act, 1952 and ♦ such transaction is supported by a time stamped contract note issued by such member/ intermediary. **Note:** The contract note should indicate Unique Client Identity Number (UCIN), Unique Trade Number (UTN) and PAN.
Recognised Association	means— An association to which recognition for the time being has been granted by the Central Government under section 6 of Forward Contracts (Regulation) Act, 1952 in respect of goods or classes of goods specified in such recognition.

15.2 *APPLICABILITY:* This amendment will take effect from 1.4.2014 and will, accordingly, apply in relation to assessment year 2014-15 and subsequent assessments years.

16. Computation of income under the head PGBP if transfer is made of immovable property [New section 43CA]

16.1 *EXISTING SITUATION:* At present, provisions of section 50C become applicable if a capital asset (being land or building or both) is transferred for a consideration which is lesser than stamp duty value. In such case, value assessed (or assessable) by stamp duty authority shall be taken as full value of consideration for the purpose of computation of capital gain.

Section 50C is applicable only to the case of transfer of a capital asset. This section cannot be resorted to calculate business income under section 28.

In ***CIT* v. *Kan Construction & Colonizers (P.) Ltd.*** [2012] 208 Taxman 478 (All.), Court have held that section 50C will not be applicable if land or building is transferred as stock-in-trade.

16.2 *INTRODUCTION OF NEW SECTION:* Section 43CA has been inserted with effect from the assessment year 2014-15. It provides that where the consideration for the transfer of an asset (other than capital asset), being land or building or both, is less than the stamp duty value, the value so adopted (or assessed or assessable) shall be deemed to be the full value of the consideration for the purposes of computing income under the head PGBP.

16.3 *IF THE DATE OF AGREEMENT AND DATE OF REGISTRATION ARE NOT SAME:* Where the date of agreement (for transfer of the asset) and the date of registration of the transfer of the asset are not same,

♦ the stamp duty value prevailing on the date of the *agreement* may be taken (instead of on the date of registration),

♦ provided that at least a part of the consideration has been received by any mode other than cash on or before the date of the agreement.

16.4 *REFERENCE TO VALUATION OFFICER:* Provisions of section 50C will apply *mutatis-mutandis.*

16.5 *APPLICABILITY:* This amendment will take effect from 1.4.2014 and will, accordingly, apply in relation to assessment year 2014-15 and subsequent assessments years.

16.6 ***[Problem based on provision]:***

Case	Date of transfer of land / building held as stock-in-trade	Actual consideration	Stamp duty value on the date of agreement	Stamp duty value on the date of registration	Full value of consid-eration u/s 43CA	Remark
		Rs. in lakhs				
1	31/12/2012	200	240 (31/7/2012)	420 (31/1/2013)	200	Section 43CA is not applicable because the date of transfer is before 1/4/2013.
2	1/5/2013	200 (Rs.20 lakhs received by **cheque** on 31/8/2012)	240 (1/9/2012)	420 (1/5/2013)	240	Stamp duty value on the date of **agreement** to be adopted as full value consideration.
3	1/5/2013	200 (Rs.20 lakhs received by **cash** on 31/8/2012)	240 (1/9/2012)	420 (1/5/2013)	420	Stamp duty value on the date of **registration** to be adopted as full value consideration.
4	31/3/2014	200 (Full amount received on the date of registration)	240 (1/5/2013)	420 (31/3/2014)	420	Stamp duty value of the date of **registration** would be the full value of consideration.

17. Immovable property received by an individual or HUF with an inadequate consideration will be taxable in certain cases [Amendments to section 56(2)(vii)]

17.1 *EXISTING PROVISION:* The existing provision does not cover a situation where the immovable property has been received by an individual or HUF for inadequate consideration. Thus, if any amount is paid as consideration (even though it is inadequate), taxability under section 56(2)(*vii*) does not attract.

17.2 *AMENDMENT:* Finance Act, 2013 has amended the provisions of section 56(2)(*vii*) so as to provide that where any immovable property is received for a consideration which is less than the stamp duty value of the property (herein after called as '*difference*') and such difference exceeds Rs. 50,000, the entire SUCH difference shall be chargeable to tax in the hands of the individual or HUF as income from other sources.

***Note*: '*Difference*'** means, excess of stamp value over consideration paid for the property.

17.3 *IF THE DATE OF AGREEMENT AND DATE OF REGISTRATION ARE NOT SAME:* If the date of the agreement fixing the amount of consideration for the immovable property and the date of registration are not the same, the stamp duty value may be taken as on the date of the agreement, (instead of that on the date of registration) **provided that** at least a part of consideration has been paid by any mode other than cash on or before the date of such agreement.

17.4 *APPLICABILITY:* This amendment will take effect from 1.4.2014 and will, accordingly, apply in relation to assessment year 2014-15 and subsequent assessments years.

18. Life insurance premium upto 15% of sum assured to qualify for deduction if policy is taken for disabled person [Amendments to section 80C]

18.1 *EXISTING PROVISION:* The existing provision of section 80C provides a deduction of maximum Rs.1,00,000 if life insurance premium is paid by an individual/HUF. However, if life insurance premium paid during the year is more than 10% (20% if policy was issued before 1.4. 2012) of actual capital sum assured, the excess amount is not considered.

18.2 *AMENDMENT:* Finance Act, 2013 has amended the provisions of section 80C and the said limit of 10% is increased to 15% for insurance (if policy is issued on or after April 1, 2013) on the life of any person who is,—

♦ ***Disabled***	*i.e.* a person with disability or severe disability as referred to in section 80U;
♦ ***Suffering from diseased***	*i.e.* a person who is suffering from disease or ailment as specified in the rules made under section 80DDB.

The table given below highlights the legal provision before and after the amendment. To get the benefit of deduction under section 80C, payment of annual premium on a life insurance policy should not exceed the following percentage of sum assured–

Date of issuance of policy	***Policy taken on the life of disabled person or person suffering from prescribed disease [see para 18.2]***	***Policy on the life any other person***
(1)	***(2)***	***(3)***
❒ Before 1.4.2012	20% of sum assured	20% of sum assured
❒ During 2012-13	10% of sum assured	10% of sum assured
❒ On or after 1.4.2013	15% of sum assured	10% of sum assured

Note: Sum assured excludes any premium agreed to be returned or any benefits to be given by way of bonus.

19. Extension of deduction of investment in Rajiv Gandhi Equity Saving Scheme [Amendments to section 80CCG]

19.1 *EXISTING PROVISION:* The existing provision of section 80CCG provides deduction to an individual in respect of investment made by him under notified equity saving scheme [Rajiv Gandhi Equity Savings Scheme (RGESS) is notified for this purpose]. The deduction under this section is allowed if few conditions, mentioned in this section, are satisfied. He can claim deduction of 50% of amount invested as per this scheme or Rs. 25,000, whichever is lower.

19.2 *AMENDMENT:* After introduction of Finance Act, 2013, provision of this section is as under:

♦ *Conditions of this section*—

Condition 1	The assessee is a resident individual (may be OR or NOR).
Condition 2	His gross total income does not exceed **Rs. 12 lakhs (*w.e.f.* A.Y. 2014-15,** earlier, Rs.10 lakhs**)**;
Condition 3	He has acquired listed shares **or listed units of equity oriented fund** in accordance with a notified scheme; **(words in bold inserted *w.e.f.* A.Y. 2014-15)**
Condition 4	The assessee is a new retail investor as specified in the above notified scheme;
Condition 5	The investment is locked-in for a period of 3 years from the date of acquisition thereof;
Condition 6	The assessee satisfies any other condition as may be prescribed.

♦ *Amount of deduction* -The amount of deduction is LOWER of the following—

(*i*) Rs. 25,000, or

(*ii*) 50% of amount so invested.

♦ *Year(s) of deduction:* Deduction under this section will be allowed during the following A.Y(s)—

If investments are made during F.Y. 2012-13	Deduction will be allowed only in A.Y.2013-14.

If investments are made during F.Y. 2013-14 onwards	**Deduction will be allowed for 3 consecutive A.Ys. beginning with the A.Y. relevant to the P.Y. in which such investment is made.**

♦ *Withdrawal of deduction* - If the assessee, after claiming the aforesaid deduction, fails to satisfy the above conditions, the deduction originally allowed shall be deemed to be the income of the assessee of the year in which default is committed.

20. Few more health schemes qualify for deduction under section 80D

AMENDMENT: Under section 80D, a deduction is available in respect of payment of medical insurance premium, contribution to Central Government Health Scheme (CGHS) and any payment made on account of preventive health check-up (subject to some restrictions).

There are other health schemes of the Central and State Governments, which are similar to the CGHS but no deduction for such schemes is available to the subscribers of such schemes. In order to bring such schemes at par with the CGHS, section 80D has been amended (with effect from the assessment year 2014-15), so as to allow the benefit of deduction under this section within the existing limit, in respect of any payment or contribution made by the assessee to such other health scheme as may be notified by the Central Government.

21. Deduction in respect of interest on loan taken for 'First Residential House Property' [New section 80EE]

21.1 *INTRODUCTION OF NEW SECTION:* Currently deduction in respect of interest on housing loan is allowed under the head 'Income from house property'. In case of 'self-occupied' property' this deduction is restricted to Rs.1,50,000.

Considering the need for affordable housing, an additional benefit for *first*-home buyers is provided by Finance Act 2013, by inserting a new section 80EE, which provides deduction in respect of interest on loan taken for residential house property.

♦ *CONDITIONS OF DEDUCTION:* Conditions for claiming this deduction are as under—

Condition 1	The assessee is an individual.
Condition 2	▪ *Housing loan:* He has obtained a 'housing loan' from any financial institution (*i.e.* Banking company/institution or housing finance company). ▪ *Sanction of loan:* Such loan is sanctioned by the said financial institution between 1.4.2013 to 31.3.2014. (it means deduction is allowed only in respect of those loans which are obtained during F.Y. 13-14) ▪ *Amount of loan:* Amount of such loan does not exceed Rs. 25,00,000.
Condition 3	Value of such residential house property does not exceed Rs. 40,00,000.
Condition 4	Such individual does not own any residential house property on the date of sanction of said loan. (it means such residential house must be his first house)

♦ *AMOUNT OF DEDUCTION:* On fulfillment of above condition, the deduction is allowed as under—

Amount of interest	*Amount of deduction*
If interest < Rs. 1,00,000	*Deduction for A.Y. 14-15*: Amount equal to such interest; **and** *Deduction for A.Y. 15-16*: Rs.1,00,000 *less* deduction allowed in A.Y. 14-15;
If interest ≥ Rs. 1,00,000	*Deduction for A.Y. 14-15*: Rs. 1,00,000;

Note: Where a deduction under this section is allowed for any such interest, deduction shall not be allowed in respect of such interest under any other provisions of the Act for the same or any other assessment year.

21.2 *APPLICABILITY:* This amendment will apply *w.e.f.* 1.4.2014 *i.e.* from A.Y. 2014-15.

21.3 *[Problem based on provision]:* Mr. Amar purchased a residential house property for self-occupation at a cost of Rs. 32,00,000 on 1.7.2013, in respect of which he took a housing loan of Rs. 25,00,000 from HDFC bank. Such loan is obtained on 1.7.2013 and its rate of interest is 11% p.a. Compute the eligible deduction in respect of interest on housing loan for A.Y.2014-15 and A.Y.2015-16 under the provisions of Income tax act, 1961 by assuming that he does not own any other house property and entire such loan is outstanding on 31.3.2015.

Solution

In the above case, deduction will be given under two places, one is under the head 'income from house property' and another under 'Chapter-VIA' as under–

Deductions for A.Y. 2014-15	
Deduction under 'House Property' [Sec. 24(b)]	**Rs. 1,50,000** [*i.e.* 25,00,000×11%×9/12 = 2,06,250 but restricted to Rs. 1,50,000]
Deduction under 'Chapter VI-A' [Sec. 80EE]	**Rs. 56,250** [*i.e.* 2,06,250−1,50,000]
Total benefit	**Rs. 2,06,250**
Deductions for A.Y. 2015-16	
Deduction under 'House Property' [Sec. 24(b)]	**Rs. 1,50,000** [*i.e.* 25,00,000×11% = 2,75,000 but restricted to Rs. 1,50,000]
Deduction under 'Chapter VI-A' [Sec. 80EE]	**Rs. 43,750** [*i.e.* 1,00,000−56,250 already allowed]
Total benefit	**Rs. 1,93,750**

22. Donation to 'National Children Fund' will qualify for 100% deduction [Amendment of section 80G]

22.1 *AMENDMENT:* Considering the 'National Children Fund' to be of national importance, section 80G has been amended to allow 100% (as against existing 50%) deduction in respect of any sum paid towards this fund.

22.2 *APPLICABILITY:* The above provision has been amended from the assessment year 2014-15.

23. Cash donation to political parties and electoral trust not to qualify for deduction [Amendment of section 80GGB and section 80GGC]

23.1 *AMENDMENT:* Contribution to political party or an electoral trust is eligible for deduction under sections 80GGB and 80GGC at the rate of 100% of such contribution. These sections have been amended with effect from the assessment year 2014-15.

After amendment, no deduction shall be allowed under sections 80GGB and 80GGC in respect of any contribution which is given in form of cash to a political party or an electoral trust.

23.2 *APPLICABILITY:* The above provision has been amended from the assessment year 2014-15.

24. Extension of sunset clause for tax holiday under section 80-IA for power sector undertakings [Amendment of section 80-IA(4)(*iv*)]

24.1 *AMENDMENT:* Under the existing provisions for section 80-IA(4)(*iv*), a deduction of profits and gains is allowed to an undertaking which is set-up as follows–

Nature of undertaking	*Commencement of operation*
♦ For the generation and distribution of **power**	At any time between 1.4.1993 to 31.3.2013
♦ Transmission or distribution of power by **laying a network** of new transmission or distribution lines	At any time between 1.4.1993 to 31.3.2013

♦ Substantial **renovation** and modernisation of **existing network** of transmission or distribution lines	At any time between 1.4.1993 to 31.3.2013

Finance Act, 2013 has extended the aforesaid time limit by one year *i.e.* from existing 31.3.2013 to 31.3.2014.

25. Deduction for new employment to be allowed in case of blue collared employees in manufacturing sector [Amendment of section 80-JJAA]

25.1 *EXISTING PROVISIONS:* The existing provisions contained in section 80JJAA of the Income-tax Act provide for a deduction of an amount equal to 30% of additional wages paid to—

- ♦ the new regular workmen
- ♦ employed in any previous year by an Indian company in its *industrial undertaking* engaged in *manufacture or production* of article or thing.

The deduction is available for three assessment years including the assessment year relevant to the previous year in which such employment is provided.

No deduction under this section is allowed if the industrial undertaking is formed by splitting up or reconstruction of an existing undertaking or amalgamation with another industrial undertaking.

The deduction under section 80JJAA was intended for employment of blue collared employees in the manufacturing sector whereas in practice, it is being claimed for other employees in other sectors also. Therefore, provisions of section 80JJAA have been amended as under:

25.2 *AMENDMENT:* After amendment, the deduction shall be available to an Indian Company if the following conditions are satisfied—

Condition 1	**Such company is deriving its profits from manufacture of goods** (earlier, 'manufacture or production of article or things');
Condition 2	**Such manufacture is talking place in its factory** (earlier, 'industrial undertaking').

AMOUNT OF DEDUCTION: The deduction shall be of an amount equal to 30% of 'additional wages' paid to the 'new regular workmen' employed by the assessee in such factory, in the previous year, for 3 assessment years including the assessment year relevant to the previous year in which such employment is provided.

For this purpose, employees can be grouped in the following categories–

Category	*Nature of Employment*	*Eligibility for deduction*
♦ ***A:*** *Managerial employees*	Employees employed in managerial or administrative capacity. It also includes employees employed in supervisory capacity and drawing salary exceeding Rs. 1,600 per month	**Not eligible** [They are not 'workmen']
♦ ***B:*** *Casual workmen*	It includes casual workmen and workmen employed through contract labour (but not coming under category A)	**Not eligible** [They are 'workmen' but not regular workmen]
♦ ***C:*** *Workmen for less than 300 days*	Other workmen (not coming under categories A and B) if employed for less than 300 days during the previous year	**Not eligible** [They are 'workmen' but not regular workmen]
♦ ***D:*** *Workmen for 300 days or more*	Other workmen (not coming under categories A and B) if employed for 300 days or more than 300 days during the previous year	**Eligible** [They are 'workmen' and regular workmen]

HOW TO CALCULATE THIS DEDUCTION: Deduction under section 80JJAA in the case of a new undertaking is available as follows—

STEP-1: First find out whether number of "workmen" (*i.e.*, category B + C + D) employed during the previous year is more than 100.

STEP-2: If yes, find out wages paid to new "regular workmen" (*i.e.*, category D) in excess of initial 100 workmen employed during the year.

STEP-3: 30% of the wages as per *STEP-2* is the amount of deduction under section 80JJAA.

NO DEDUCTION IF FACTORY IS HIVED OFF: Deduction under this section shall not be available if the factory is hived off or transferred from another existing entity or acquired by the assessee company as a result of amalgamation with another company.

25.3 *APPLICABILITY:* This amendment will take effect from 1st April, 2014 and will, accordingly, apply in relation to assessment year 2014-15 and subsequent assessment years.

26. Requirement of Tax Residency Certificate (TRC) to contain 'prescribed particulars' is no more required. Now, to claim relief provided by DTAA, a 'certificate of being resident' is required to be furnished along with prescribed documents and information [Amendment of section 90 and 90A]

26.1 *EXISTING PROVISIONS:* The DTAAs under section 90 and section 90A are intended to provide relief to the taxpayer, who is resident of one of the contracting countries to the agreement. Such tax payer can claim relief by applying the beneficial provisions of either the treaty (*i.e.* DTAA) or the domestic law (like Income Tax-act).

♦ However, in many cases, taxpayers who were not residents of the contracting country also resorted to claiming the benefits under the agreement entered into by the Indian Govt. with the Govt. of the contracting country. In effect, third party residents claimed the unintended treaty benefits.

♦ To avoid this, sections 90 and 90A were amended by the Finance Act, 2012 by inserting sub-section (4) to provide that the non-resident to whom the agreement referred to in section 90(1) and section 90A(1) applies, shall be allowed to claim the relief under such agreement if—

1.	He has furnished a *Tax Residency Certificate* (TRC) obtained by him from the Government of that country or specified territory;
2.	The TRC so furnished *contains such particulars as may be prescribed* declaring his residence of the country outside India or the specified territory outside India as the case may be.

The Explanatory Memorandum explaining the provisions of the Finance Bill, 2012 clarified that submission of TRC containing the prescribed particulars shall be a necessary but not a sufficient condition for availing benefits of the agreements referred to in these sections.

♦ Fulfilling the above requirement were, however, considered to be a restrictive factor which would adversely impact foreign investment in India, the Finance Minister had, therefore, clarified, by way of Press Release dated 1st March 2013, that the TRC issued by the Government of a foreign country would be accepted as evidence of tax residency.

26.2 *AMENDMENT:* The said clarification has been incorporate in the statute and sub-section (4) of sections 90 and 90A has been amended

→ to substitute the words "*a certificate containing such particulars as may be prescribed of his being a resident*"

→ with the words "***a certificate of his being a resident***".

Thus, a certificate issued by the Govt. of a foreign country would constitute proof of tax residency, without any requirement of furnishing "prescribed particulars" therein.

ADDITIONAL DOCUMENTS AND INFORMATION: Also, sub-section (5) has been inserted in sections 90 and 90A to require the assessee seeking treaty benefits to provide such other documents and information, as may be prescribed. [*see* rule 21AB and Form Nos.10FA and 10FB].

26.3 *APPLICABILITY:* This amendment will take effect retrospectively from 1st April, 2013 and will, accordingly, apply in relation to assessment year 2013-14 and subsequent assessment years.

27. Increase in income tax rate in case of royalty and fees for technical services received by a non-corporate non-resident or a foreign company [Amendment of section 115A]

27.1 *EXISTING PROVISIONS*: In case of a non-corporate non-resident assessee or a foreign company, whose total income includes any income by way of Royalty and Fees for technical services (FTS) received under an agreement entered after 31.03.1976 and which are not effectively connected with his/its permanent establishment in India, the manner of determination of tax liability is contained in section 115A.

At present, the rate of tax for such royalty or FTS depends on the period when the agreement is entered into. The current rates are as under—

Date of agreement (in pursuance of which royalty or FTS is received)	*Applicable tax rate*
♦ On or before 31.5.1997	30%
♦ After 31.5.1997 but before 1.6.2005	20%
♦ On or after 1.6.2005	10%

India has tax treaties with 84 countries, majority of tax treaties allow India to levy of tax on gross amount of royalty at rates ranging between 10% to 25%. However, the tax rate as per section 115A is only 10%, which, in certain cases, result in taxation of royalty at a lower rate of 10% even if the income is taxable at a higher rate as per the DTAA.

27.2 *AMENDMENT:* The said rate of 10% is increased to 25% (+SC+EC+SHEC) and shall be applicable to any income by way of royalty and fees for technical services received by such non-corporate non- resident or foreign company, under an agreement entered after 31.03.1976, which is taxable under section 115A. The reason to increase such rate is to bring the rate of tax provided by section 115A closer to the general rates specified in DTAAs, so that the rate under section 115A is not lower than the general treaty rates.

27.3 *APPLICABILITY:* This amendment will take effect from 1st April, 2014 and will, accordingly, apply in relation to assessment year 2014-15 and subsequent assessment years.

28. Dividend received by Indian companies from specified foreign companies to be entitled to concessional rate of tax for one more year [Amendment of section 115BBD]

27.1 *AMENDMENT:* Section 115BBD provides for taxation of gross dividends received by an Indian company from a specified foreign company (in which it has shareholding of 26% or more) at the rate of 15% (+SC + EC + SHEC) on gross dividend (it means no expenses is allowed to be deducted therefrom).

The concessional rate was originally introduced by the Finance Act, 2011 for assessment year 2012-13; but it was extended by Finance Act, 2012 to assessment year 2013-14 also.

Finance Act, 2013, has now further extended the benefit of this concessional rate of 15% to the assessment year 2014-15.

28. Dividend received from a foreign subsidiary on which tax is payable under section 115BBD by the domestic holding company to be reduced from the amount declared, distributed or paid by way of dividend by it, for levy of DDT [Amendment of Section 115-O]

28.1 *EXISTING PROVISIONS:* Dividend Distribution Tax (DDT) is levied as per section 115-O. This section provides that any amount declared distributed or paid by way of dividends shall be liable to be taxed at the rate of 15%(+SC+EC+SHEC).

As per section 10(34), such dividend is exempt in the hands of the shareholder.

REMOVAL OF CASCADING EFFECT BY SECTION 115-O(IA): In order to provide a partial relief from double taxation of dividends, sub-section (1A) was inserted in section 115-O by the Finance Act, 2008 to remove the cascading effect of DDT in a *two-tier* corporate structure. This section was further amended by the Finance Act, 2012 to remove the cascading effect of DDT in a *multi-tier* corporate structure also.

Therefore, in case a holding company, being a domestic company, receiving any dividend during the year from any subsidiary company, where such subsidiary company has paid the DDT on such dividend, then, the dividend distributed by the holding company in the same year, to the extent of dividend received from the subsidiary, shall not be subject to DDT under section 115-O.

For this purpose, a holding company is one which holds more than 50% of the nominal value of equity shares of the subsidiary. Further, such dividend shall not be taken into account for reduction more than once [Section 115-O(1A)(*i*)].

28.2 *AMENDMENT:* Finance Act, 2013 has further amended section 115-O so as to provide a deduction of dividend received by a domestic company from its foreign subsidiary company (in which such domestic company has shareholding of 26% or more) on which tax is payable under section 115BBD by such domestic company. However, such dividend shall not be taken into account for reduction more than once.

Thus, after introduction of Finance Act, 2013, DDT shall be payable on the following amount—

What to do	*Particulars*	*(Rs.)*
Take	Dividend declared, distributed or paid by the holding company to its shareholders	××
Less	Dividend received by holding company from its subsidiary (subsidiaries) company in the same financial year on which DDT is paid by these subsidiary (subsidiaries) company [*Note*: Holding company means the one which holds *more than* 50% of equity shares of subsidiary company].	××
Less	**Dividend received by domestic holding company from its foreign subsidiary company on which such domestic holding company is required to tax under section 115BBD *[w.e.f. 1.6.2013]*** [*Note*: Holding company means the one which holds 26% *or more* of equity shares of subsidiary company].	××
	Amount on which DDT is to be paid	××

28.3 *[Problem based on provision]:* X Ltd.(Indian company), receives the following dividend income during the P.Y. 2013-14 :

Name of subsidiary company	*X ltd's holding in such subsidiary company*	*Amount of dividend (Rs.)*
1. ABC Inc.(a foreign company)	25% equity shares	1,60,000
2. DEF Inc.(a foreign company)	30% equity shares	3,70,000
3. GHI Inc.(a foreign company)	55% equity shares	4,30,000
4. JKL Ltd. (an Indian company) [*Note*: JKL Ltd. has paid DDT on its distributed dividends]	55% equity shares	1,80,000

X Ltd. has paid remuneration of Rs.36,000 for realising these dividend as under–

- Rs.8,000 (ABC Inc.)

- Rs.18,000 (DEF Inc.)
- Rs.10,000 (JKL Ltd.)

The business income of X Ltd. computed under the provisions of the Act is Rs.80 lakh. Compute the total income and tax liability of X Ltd., ignoring MAT. Assuming that X Ltd. has distributed dividend of Rs.8,40,000 in February, 2014, compute the additional income-tax payable by it under section 115-O. **[ICAI—Supplementary for May, 2014 attempt (modified)]**

Solution

Computation of total income of X Ltd. for A.Y. 2014-15

Particulars		**(Rs.)**
Business income		80,00,000
Income from other sources (*see* Working Note)		9,52,000
	Total income	**89,52,000**

Working Note: Income from other sources *i.e.* dividend income

Particulars	*Applicable tax rate*	*(Rs.)*
Dividend from ABC Inc. (net of expenses)	Normal	1,52,000
Dividend from DEF Inc. (gross dividend is taxable as per Sec.115BBD)	15% [Sec. 115BBD]	3,70,000
Dividend from GHI Inc. (gross dividend is taxable as per Sec.115BBD)	15% [Sec. 115BBD]	4,30,000
Dividend from JKL Ltd. [Exempt under section 10(34)]	Nil	Nil
	Total income	**9,52,000**

Computation of various taxes to be paid by A Ltd.

Nature of tax		*Applicable tax rate*	*Amount of tax (Rs.)*
Income tax :			
♦ Tax on Rs. 8,00,000 (*i.e.* foreign dividend)		15% [Sec. 115BBD]	1,20,000
♦ Tax on Rs. 81,52,000 (*i.e.* balance income)		Normal 30%	24,45,600
♦ EC + SHEC		3% of tax	76,968
			26,42,568
2. Dividend Distribution Tax (DDT) :			
♦ Amount distributed as dividend	8,40,000		
Less: Dividend received from JKL Ltd. on which DDT is paid under section 115–O	1,80,000		
Less: Dividend received from DEF Inc. and GHI Inc. on which tax is paid under section 115BBD	4,30,000		
♦ Amount on which DDT is to be paid	2,30,000	15% [Sec. 115-O]	34,500
♦ Surcharge		10% of DDT	3,450
♦ EC + SHEC		3% of (DDT+SC)	1,139
			39,089

29. Levy of additional income tax on buy-back of unlisted shares [New section 115-QA]

29.1 *EXISTING PROVISIONS:* Section 2(22) defines the term 'dividends'. Section 115-O provides for levy of Dividend Distribution Tax (DDT) on the company at the time when company distributes, declares or pays any dividend to its shareholders. The dividend, on which DDT is paid, is exempt in the hands of shareholder under section 10(34).

The consideration received by a shareholder on buy-back of shares by the company is not treated as dividend but is taxable as capital gains under section 46A of the Act.

A company, having distributable reserves, has following two options to distribute the same to its shareholders—

Option− 1	Declaration and payment of dividends to the shareholders;
Option− 2	Purchase of its own shares (*i.e.* buy back of shares) at a consideration fixed by it

Under *Option-1*, the company is subject to DDT and dividend income is exempt in the hands of shareholders. Whereas under *Option-2,* the income is taxed in the hands of shareholder under section 46A as capital gains.

Unlisted Companies, as part of tax avoidance scheme, are resorting to buy back of shares instead of payment of dividends in order to avoid payment of tax by way of DDT particularly where the capital gains arising to the shareholders are either not chargeable to tax or are taxable at a lower rate because of availability of exemptions under section 45 to 55 or because of operation of DTAA.

29.2 *AMENDMENT:* In order to curb such practice, Finance Act, 2013 has inserted a new Chapter XII-DA (comprising sections 115QA, 115QB and 115QC), which provides as under:

Applicability	Provisions of this Chapter apply to a domestic company buying-back its own unlisted shares.
Levy of additional tax *[Sec.115QA]*	Additional income-tax on 'distributed income' shall be levied @20% (+SC 10% + EC 2% + SHEC 1%). *Notes—* *1*. 'Distributed income' means, the consideration paid by the company for buyback of its own unlisted shares *as reduced by* the sum received by it at the time of issue of such shares. *2*. The additional income-tax under section 115QA shall be in addition to the income-tax chargeable in respect of the total income of such company. *3*. The additional income-tax shall be payable irrespective of the fact whether regular income-tax is payable by the company on its total income or not. *4*. The above tax shall be final payment of tax and no credit shall be claimed either by the company or by any other person in respect of the tax paid. *5*. No deduction under any provision of the Act shall be allowed to company or shareholder in respect of the above tax.
'Due date' for its payment	Such additional tax shall be remitted to the credit of Central Government within 14 days of the date of payment of consideration for buy-back.
Consequence for default *[Sec.115QB and 115QC]*	♦ *Interest :* If such additional income-tax is not paid within the said 14 days, the principal officer of the company and the company will be liable to pay simple interest at the rate of 1% for every month or part of the month on the amount of tax not paid or short paid for the period beginning on the date immediately after the 'due date' and ending with the date on which the tax is actually paid. ♦ *Assessee-in-default* : In addition to interest, the principal officer of the company and the company will be deemed to be assessee-in-default in respect of short/non-payment of additional income tax. Accordingly, all the provision of the act for collection and recovery would apply.

29.3 *APPLICABILITY:* This amendment will take effect from 1st June, 2013.

30. Increase in rate of additional income-tax on income distributed by mutual funds [Amendment of section 115R]

30.1 *AMENDMENT:* As a measure of rationalisation of tax on distributed income by Mutual Funds or specified company, the tax rates provided by section 115R are amended as under—

Type of fund	*Person to whom income is distributed*	*Tax rates upto 31.5.2013*		*Tax rates on or after 1.6.2013*	
		IT rate	*IT rate +SC+EC+SHEC*	*IT rate*	*IT rate +SC+EC+SHEC*
1. Equity Oriented Fund	Any person	Nil	Nil	Nil	Nil
2. Money Market Mutual Fund or Liquid Funds	Individual or HUF Any Other person	25% 30%	28.325% 33.99%	25% 30%	28.325% 33.99%
3. Funds other than those specified in 2 above	Individual or HUF Any Other person	12.5% 30%	14.1625% 33.99%	**25%** 30%	**28.325%** 33.99%
4.Infrastructure Debts Funds set up as a Mutual Fund or NBFC	Non-corporate non-resident Foreign company	25% or 12.5% (*i.e.* above rates) 30% (*i.e.* above rates)	28.325% or 14.1625% (*i.e.* above rates) 33.99% (*i.e.* above rates)	**5%** **5%**	**5.665%** **5.665%**

30.2 *APPLICABILITY:* This amendment will take effect from 1st June, 2013.

31. Application of seized assets under section 132B [Amendment of section 132B]

31.1 *EXISTING PROVISION:* Section 132B(1), *inter-alia*, provides that seized assets may be adjusted against—

♦ any "*existing liability*" under the Income-tax Act, 1961 Wealth-tax Act, 1957 etc.; and

♦ the amount of liability determined on completion of assessments pursuant to search, including any penalty levied or interest payable in connection with such assessment and in respect of which such person is in default or deemed to be in default.

'EXISTING LIABILITY'—JUDICIAL INTERPRETATION: Various courts have taken a view that the term "existing liability" includes advance tax liability of the assessee and if seized assets are adjusted against advance tax liability, interest under sections 234B and 234C cannot be imposed– *CIT* v. *Ashok kumar* [2011] 334 ITR 355 (P&H), *Ram S. Sarda* v. *Dy. CIT* [2012] 25 Taxmann 455 (Rajkot)

However, this interpretation does not reflect the real intent of the legislature, which is to ensure the recovery of tax, interest and penalty due and to further provide for recovery of taxes, interest and penalty which may arise subsequent to the search assessment.

31.2 *AMENDMENT:* Finance Act, 2013 has amended section 132B and has inserted an Explanation 2 to clarify that the "existing liability" does not include advance tax payable in accordance with the provisions of Part C of Chapter XVII of the Income-tax Act, 1961.

31.3 *APPLICABILITY:* This amendment will take effect from 1st June, 2013.

32. Return filed without payment of self assessment tax to be treated as defective return [Amendment of section 139(9)]

32.1 *AMENDMENT:* Finance Act, 2013 has amended section 139(9) *w.e.f.* June 1, 2013 to provide that the return of income shall be regarded as defective unless the tax together with interest, if any payable in accordance with the provisions of section 140A has been paid on or before the date of furnishing of the return.

33. Powers of Assessing Officer to give directions for special audit have been enlarged [Amendment of section 142(2A)]

33.1 *EXISTING PROVISIONS:* Section 142(2A), *inter alia*, provided that if at any stage of the proceeding, the Assessing Officer,

1.	having regard to the nature and complexity of the accounts of the assessee; and
2.	having regard to the interests of the revenue,

is of the opinion that it is necessary so to do, he may, with the approval of the Chief Commissioner or Commissioner, direct the assessee to get his accounts audited by the accountant and to furnish a report of such audit.

33.2 *AMENDMENT:* Finance Act, 2013 has amended this section so as to enlarge the powers of Assessing Officer. The Assessing Officer can now order for special audit not only for the reasons mentioned in *1* and *2* above but also in the cases given below—

New reason—1	having regard to the *volume of the accounts;*
New reason—2	having any *doubt about the correctness of accounts*;
New reason—3	having regard to the *multiplicity of transaction in the accounts*;
New reason—4	having regard to the *specialized nature of business activity of assessee.*

34. Time limit for completion of assessment where direction issued for special audit is challenged before Courts [Amendment of section 153 and 153B]

34.1 *EXISTING PROVISIONS:* Section 153 provides the time limit for completion of assessment and reassessment of income by the Assessing Officer and section 153B provides the time limit for completion of assessment in case of search or requisition.

♦ Explanation 1 to section 153 and Explanation to section 153B provide for exclusion of certain periods in computing the period of limitation for the purposes of the said sections.

♦ As per clause (*iii*) of Explanation 1 to section 153 and clause (*ii*) of Explanation to section 153B, the following time period is excluded in computing the period of limitation for assessment or reassessment, and assessment in case of search or requisition, respectively.

the period commencing from	*the period ending with*
the date on which the A.O. directs the assessee to get his accounts audited under section 142(2A).	the last date on which the assessee is required to furnish a report of such audit under section 142(2A).

♦ The above sections, however, do not provide for exclusion of time in case the direction of the Assessing Officer is set aside by the court.

34.2 *AMENDMENT:* Finance Act, 2013 has amended these clauses and after amendment, the following time limit shall be excluded from the time limit given under section 153 and 153B—

the period commencing from	*the period ending with*	
	If such direction is not challenged before a court	*If such direction is challenged before a court*
the date on which the Assessing Officer directs the assessee to get his accounts audited under section 142(2A).	the last date on which the assessee is required to furnish a report of such audit under section 142(2A).	the date on which the order setting aside such direction is received by the Commissioner.

34.3 *APPLICABILITY:* This amendment will take effect from 1st June, 2013.

35. Where more than one references are made for exchange of information from foreign tax authorities, the period to be excluded will start from FIRST reference [Amendment of section 153 and 153B]

35.1 *EXISTING PROVISIONS:* In case an assessee is having income or assets outside India, information is sought from the tax authorities situated outside India, while completing an assessment or reassessment proceeding. Section 90 and section 90A provides for information exchange with the foreign tax authorities for prevention of evasion or avoidance of income tax chargeable under this Act or under the corresponding law in force in that country or specified territory, as the case may be.

♦ As per clause (*viii*) of Explanation 1 to section 153 and Explanation to section 153B, the following time, which is taken in obtaining information (from foreign tax authorities), is excluded from the time prescribed under section 153 and 153B—

being the LOWER of the following periods:
■ *Period in obtaining such information i.e.* the date of making said reference by the competent authority under section 90 and 90A, till the date on which information so requested is received by the commissioner; or ■ *One year*

♦ There are times when more than one reference for exchange of information is made in a particular case, consequent to which there are more than one reply from the foreign Competent Authorities. This leads to a dispute while determining the period of exclusion *i.e.*, whether it should be from the date of making first reference or from the date of making last reference. Likewise, dispute may also arise with regard to the dates on which the information so requested is received.

35.2 *AMENDMENT:* In order to clarify the above situation, clause (*viii*) of Explanation 1 to section 153 and Explanation to 153B has been amended to provide for exclusion period as under—

being the LOWER of the following periods:
■ *Period in obtaining such information i.e.* the date of making said reference **or first of said references,** by the competent authority under section 90 and 90A, till the date on which information so requested is **last** received by the commissioner; or ■ *One year*

35.3 *APPLICABILITY:* This amendment will take effect from 1st June, 2013.

36. Extended time limit for completion of assessment will apply irrespective of the date of making reference to TPO [Amendment of section 153 and 153B]

36.1 *EXISTING PROVISIONS:* Sections 153 and 153B, *inter-alia*, provide the time-limit for completion of assessment and reassessment under different situations. Further, these time-limits get extended if a reference is made under section 92CA to the Transfer Pricing officer (TPO) during the course of assessment/ reassessment proceedings.

These time-limit extended by the Finance Act, 2012 by 3 months *w.e.f.* July 1, 2012 as under —

Assessment referred to in section 143 and 144 *[Sec.153(1)]*	♦ *No reference case:* 2 years (earlier 21 months) from the end of the relevant A.Y. ♦ *Reference case:* 3 years (earlier 33 months) from the end of the relevant A.Y. [*Extended period will apply in respect of A.Y. 2009-10 and subsequent A.Ys. if during the course of assessment proceedings a reference to TPO is made under section 92CA.*] **Condition: The reference to TPO should be made on or after 1.7.2012 or if it is made before 1.7.2012, the TPO has not passed his order till 1.7.2012;**

Assessment referred to in section 147 [Sec.153(2)]	♦ *No reference case:* 1 year (earlier 9 months) from the end of the financial year in which notice under section 148 is served. ♦ *Reference case:* 2 year (earlier 21 months) from the end of the financial year in which notice under section 148 is served. [*Extended period will apply if notice under section 148 is served on or after 1.4.2010 AND during the course of assessment proceedings a reference to TPO is made under section 92CA.*] **Condition: The reference to TPO should be made on or after 1.7.2012 or if it is made before 1.7.2012, the TPO has not passed his order till 1.7.2012;**

36.2 *AMENDMENT:* Finance Act, 2013, has amended the said provisions, *w.r.e.f.* 1.7.2012, so as to provide that the extended time limits of 3 years and 2 years, respectively, will be applicable irrespective of the time of making reference to TPO or passing of order by the TPO. It means, the Condition regarding date of making reference, is now deleted.

Similar amendments have been made in section 153(2A) (*i.e.* time limit for completion of assessment in case of set aside and referred back cases) and also in section 153B (*i.e.* time limit for completion of assessment in case of search or requisition).

36.3 *APPLICABILITY:* This amendment will take retrospective effect from 1.7.2012.

37. For the purpose of recovery from partners of LLPs and directors of private companies in liquidation, the word 'tax due' to include interest, penalty, or any other sum payable [Amendment of section 167C and 179]

37.1 *EXISTING PROVISIONS:* Section 179 of the Income-tax Act provides as under:

- where the "tax due" from a private company cannot be recovered from such company,
- then the director (*i.e.* the director of such company during the previous year to which non-recovery relates)
- shall be jointly and severally liable for payment of such "tax"
- unless he proves that the non-recovery of tax cannot be attributed to any gross neglect, misfeasance or breach of duty on his part.

This provision is intended to recover the outstanding demand under the Act of a private company from the directors of such company in certain cases.

However, some courts [*see Maganbhai Hansrajbhai Patel* v. *CIT* [2012] 211 Taxman 386 (Guj.)] have interpreted the phrase 'tax due' used in section 179 to hold that it does not include penalty, interest and other sum payable under the Act.

37.2 *AMENDMENT:* Finance Act, 2013, has amended the said section, so as to clarify that for the purposes of this section, the expression "tax due" includes penalty, interest or any other sum payable under the Act. Amendments on the similar lines have been made to the provisions of section 167C [*i.e.* recovery from partner(s) of LLP].

38. TDS on purchase of immovable property [New section 194-IA]

38.1 *NEW SECTION:* Section 194-IA has been inserted *w.e.f.* 1.6.2013. Provisions are as under—

1. Who is required to deduct tax at source	Any person (being a transferee) who is responsible for paying to a resident (being transferor) any sum by way of consideration for transfer of any immoveable property [other than agricultural land in rural area, *see* section 2(14)], is liable to deduct tax at source under section 194-IA.
2. Time of deduction	Payment of credit whichever is earlier.
3. Rate of TDS	♦ If PAN is furnished : 1% ♦ If PAN is not furnished : 20% (section 206AA)
4. Threshold limit (i.e. no TDS limit)	If the amount of consideration does not exceed Rs. 50,00,000

Notes—

- *Provision of TAN not applicable*– Provisions of section 203A (pertaining to TAN) shall not apply in respect of tax deducted under section 194-IA.
- The above provisions of section 194-IA are not applicable if a person acquires rural agricultural land in India. For this purpose, the definition of section 2(14) will apply;
- Immovable property means any land or any building or part of building. Such property may be situated in India or may be situated outside India. If the transferor is resident in India, TDS provisions of section 194-IA will apply. However, as mentioned earlier, if a person acquires an agricultural land in a rural area in India, TDS provisions will not be applicable.

39. Concessional TDS in respect of interest on rupee denomination bonds or Government securities [New section 194-LD]

NEW SECTION: Section 194-LD has been inserted with effect from 1.6.2013. Provisions of this section will apply in respect of any income being 'interest' on rupee denomination bonds of Indian company or 'interest' on Government securities, which is payable to FII or QFI between 1.6.2013 to 31.5.2015. Details are as under—

1. Who is required to deduct tax at source	Any person who is responsible for paying any sum as given below.
2. Who is deductee	The payee, being— ♦ A Foreign Institutional Investor (FII) specified by the Central Government by notification in Official Gazette; or ♦ Qualified Foreign Investors (QFI) who meet certain KYC (Know Your Customer) requirement under SEBI Laws and hence permitted to invest in equity and debt schemes of Mutual Funds in India;
3. Nature of payment	Interest on— ♦ Rupee denomination bonds of Indian company; ♦ Government securities. which is payable between 1.6.2013 to 31.5.2015 (*i.e.* 2 years).
4. TDS when	At the time of payment or credit whichever is earlier.
5. Rate of TDS	♦ If PAN is furnished by the payee : 5% (+SC+EC+SHEC) ♦ If PAN is not furnished by him : 20%

Notes—

- *Provisions of section 195 will not apply*: if tax is deductible under section 194LD, TDS under sections 195 will not be applicable.
- *Provisions of section 115AD and 196D would not apply*: Consequential amendments have been made in section 115AD to provide that such interest received by a FII would be taxable@5% (instead of 20% applicable in respect of income from securities). Similarly, section 196D, providing for deduction of tax@20% on income from securities referred to in section 115AD(1)(a) in case of a FII, has been amended to specifically exclude interest referred to in section 194LD, which would be subject to TDS@5%.

40. Non-applicability of higher rate of section 206AA in respect of TDS referred to in section 194LC [Amendment of section 206AA]

AMENDMENT: Section 206AA provides that where the payee does not furnish his PAN or furnishes incorrect PAN to the payer, the rate of TDS will be 20% or rate provided in relevant section, whichever is higher.

Finance Act, 2013 has amended this section so as to provide that this higher rate of TDS will not apply to the payments referred to in section 194LC (*i.e.* interest payable by an Indian company on money borrowed from a non-corporate non-resident or foreign company). The rate of TDS provided by section 194LC is currently 5%.

41. Now TCS provisions will also apply to any coin or article weighing upto 10 gms if consideration exceeds Rs. 2,00,000 [Amendment of section 206C]

41.1 *EXISTING PROVISION:* Sale of bullion/jewellery is subject to TCS provisions, if the sale consideration of bullion (excluding any coin/article weighing 10 grams or less) exceeds Rs. 2,00,000 or sale consideration of jewellery exceeds Rs.5,00,00 and out of sale consideration any amount is received in cash.

41.2 *AMENDMENT:* Finance Act, 2013 has amended this provision *w.e.f.* 1.6.2013, and after such amendment the consideration of "any coin or any other article weighting 10 gms. or less" shall not to be excluded while calculating the monetary limit of Rs.2,00,000 in case of bullion.

42. Penalty for non-filing of Annual Information Return [Amendment of section 271FA]

AMENDMENT: Section 271FA has been amended with effect 1.4.2014 as follows –

Penalty for failure to file AIR [Sec. 271FA]	If a person who is required to furnish an AIR under section 285BA(1) fails to furnish such return within the time prescribed (*i.e.*, on or before 31st August of immediately following financial year), the income-tax authority may direct that such person shall pay penalty of Rs. 100 for every day during failure period.
Penalty for failure to file AIR even after a Notice is issued u/s 285BA(5) by I.T. Authority [Proviso to Sec. 271FA]	Where such person fails to file AIR within the period specified in the notice issued under section 285BA(5), he shall penalty of Rs. 500 for every day during which the failure continues, beginning from the next day on which the time specified in such notice expires.

43. New parameters to define 'agriculture land in India' [Amendment of section 2(14)]

43.1 *EXISTING PROVISIONS:* Section 2(14) defines the term 'capital asset'. As per this section, 'capital asset' excludes 'agriculture land in India'. However, 'agriculture land in India' does not include the following lands—

(*a*) *LAND IN MUNICIPALITY i.e.* agricultural land situated in any area within the jurisdiction of a municipality or cantonment board having population of not less than 10,000 according to last preceding census, or

(*b*) *LAND IN URBANISATION AREA i.e.* agricultural land situated in any area within such distance not exceeding 8 kms from the local limits of any municipality or cantonment board, as notified by the Central Govt. having regard to the extent and scope of urbanization and other relevant factors.

Accordingly, the agricultural land mentioned in (*a*) and (*b*) above, being land situated within the specified urban limits, would fall within the definition of "capital asset", and transfer of such land would attract capital gains tax.

43.2 *AMENDMENT:* Finance Act, 2013 has amended clause (*b*) *w.e.f.* A.Y. 2014-15. After such amendment clause (*b*) reads as under—

(*b*) *LAND IN URBANISATION AREA, i.e.* agriculture land in India which is situated within in specified distance [see *Column (2)* of the table below], **measured aerially**, of municipality or cantonment board having the specified range of population [see *Column (1)*] as given below—

Range of population of municipality or cantonment board (according to the last preceding census of which the relevant figures have been published)	*specified distance (measured aerially) from the local limit of such municipality or cantonment board [Land situated within this distance are 'capital asset']*
(1)	(2)
Exceeding 10,000 but not exceeding 1,00,000	2 kilometres or less than that
Exceeding 1,00,000 but not exceeding 10,00,000	6 kilometres or less than that
Exceeding 10,00,000	8 kilometres or less than that

Thus, transfer of land which is situated in any area specified in *Column* (*2*) of the above table, would fall within the definition of 'capital asset' and transfer thereof would attract tax on capital gain.

WEALTH TAX

44. Amendment in definition of 'urban land' [Amendment of section 2(*ea*)]

AMENDMENT: 'Urban land' is an "asset" under section 2(*ea*) and is therefore chargeable to wealth-tax. Definition of 'urban land' is given under clause (*b*) of Explanation 1 of section 2(*ea*). This Explanation has been amended with effect from the assessment year 2014-15. After such amendment 'urban land' means a land situated—

(*a*) *IN MUNICIPALITY i.e.* land situated in any area within the jurisdiction of a municipality or cantonment board having population of 10,000 or more according to last preceding census, or

(*b*) *IN URBANISATION AREA, i.e.* land situated within in specified distance [see *Column (2)* of the table below], **measured aerially**, of municipality or cantonment board having the specified range of population [see *Column (1)*] as given below—

Range of population of municipality or cantonment board (according to the last preceding census of which the relevant figures have been published)	*specified distance (measured aerially) from the local limit of such municipality or cantonment board [Land situated within this distance is 'urban land']*
(1)	(2)
Exceeding 10,000 but not exceeding 1,00,000	2 kilometres or less than that
Exceeding 1,00,000 but not exceeding 10,00,000	6 kilometres or less than that
Exceeding 10,00,000	8 kilometres or less than that

45. Agriculture land as per Government records is not treated as 'asset' [Amendment of section 2(*ea*)]

AMENDMENT: Section 2(*ea*) excludes certain land from the preview of definition of 'asset'. Finance Act, 2013, has inserted one more point to it *w.r.e.f.* A.Y. 1993-94. After such amendment, the following lands are not treated as 'asset'—

Case—1	Land on which construction of building is not permissible *under any law* for the time being in force.
Case—2	Land on which building (residential or commercial) has been constructed with the approval of appropriate authority.
Case—3	Any unused land held for *industrial purpose* for a period of 2 years from the *date* of its acquisition by the assessee.
Case—4	Land held as *stock-in-trade* for a period of 10 years from the *date* of its acquisition by the assessee.
Case—5 [w.r.e.f. A.Y. 93-94]	**Land,** ♦ **which is classified as agricultural land in the records of the Government and** ♦ **used for agricultural purposes.** *Note*: This land shall not be considered as urban land even if it falls within specified urban area.

46. Amendments relating to filing of return [Amendment of section 14A and 14B]

46.1 *AMENDMENT:* Like Income-tax Act, 1961, for promoting electronic filing of annexure-less return of net wealth, new sections 14A and 14B have been inserted in the Wealth-tax Act, 1957. These sections have more or less similar provisions as are in sections 139C and 139D of the Income-tax Act, 1961.

Provisions of these sections are as under—

Section 14A	***Power of Board to dispense with furnishing documents, etc., with return***—The Board may make rules to dispense with furnishing of documents, statements, audit reports, reports of registered valuer etc. (which are otherwise required to be furnished under any other provisions of this Act), along with the return of wealth. *Note*— ♦ On demand of AO, assessee shall produce these documents. It means, even though these documents are not required to be furnished with return, yet assessee shall maintain them. ♦ Said rules may be made for class or classes of persons.
Section 14B	***Filing of return in e-form***—The Board may make rules for— (*a*) the class or classes of **persons** who shall be required to furnish the return in electronic form; (*b*) the **form** and the manner in which the return in electronic form may be furnished (*c*) the computer **resource** or the electronic record to which the e-return may be transmitted

46.2 *APPLICABILITY:* This amendment will take effect from A.Y. 2014-15.

PART B

INDIRECT TAXES

1. EXCISE

1. Offence involving evasion of duty exceeding Rs. 50 lakh (as against 30 lakh) would attract imprisonment [Section 9(1)(i)]

1.1 *AMENDMENT:* Section 9 provides that an offence case involving evasion in which the duty leviable exceeds Rs.30 lakh shall be punishable with a term of imprisonment extending to 7 years with fine.

This section has been amended so as to substitute the amount of Rs.30 lakh with Rs.50 lakh.

2. Cognizable and non-cognizable offences under Excise [Section 9A, 20 and 21]

2.1 *AMENDMENT IN SECTION 9A:* Section 9A is being amended to make an offence cognizable and non-bailable if—

1.	such offence is punishable under section 9(1)(*bbbb*) or clause (*b*); and
2.	the duty liability under such offence exceeds Rs. 50 lakh

Prior to the introduction of Finance Act, 2013, **all** offences under Central Excise law were non-cognizable and bailable. In the case of ***Om Prakash* v. *UOI*** [2011] 272 ELT 321, Supreme Court also affirmed that all the offences under the Central Excise Act are non-cognizable and bailable.

To supersede the said finding, Finance Act, 2013, has amended sections 9A, 20 and 21 to make certain offences cognizable and non-bailable. Therefore, now some offences under central excise are cognizable while others non-cognizable. Further, cognizable offences would be non-bailable and non-cognizable offences would be bailable.

Offence punishable under section 9(1), are as under—

(b)	Where someone evades the payment of any duty payable under this Act;
(bbbb)	Where someone contravenes any of the provisions of this Act or the rules made thereunder in relation to credit of any duty allowed to be utilised towards payment of excise duty on final products.

2.2 *AMENDMENT IN SECTION 20 AND 21:* The Finance Act, 2013 has amended section 20 to provide that a person can be admitted to bail by an officer-in-charge of the police station **only in respect of an offence which is non-cognizable.** Before such amendment, bail was allowed to be admitted to any person arrested. Similar amendments have been made in section 21 whereby the provisions relating to release of arrested persons on bail or personal bond by the nearest Central Excise Officer have been made applicable only to non-cognizable offences.

2.3 *APPLICABILITY:* This amendment will take effect from 10.5.2013.

3. Recovery by other officers is also possible [Section 11]

3.1 *AMENDMENT IN SECTION 11:* Section 11 has been amended *w.e.f.* 10.5.2013 so as to widen the powers of the officer empowered by the CBEC. After such amendment, the officer empowered the CBEC may

- ☑ deduct (himself), or
- ☑ **require any other Central Excise Officer or a proper officer referred to in section 142 of the Customs Act, 1962 to deduct [Inserted by Finance Act, 2013 *w.e.f.* 10.5.2013]**

the amount payable by the person from any money owing to him.

3.2 *INTRODUCTION OF 'GARNISHEE PROCEEDINGS' IN SECTION 11:* **'Garnishee proceeding'** means recovery of monies from third person *i.e.* debtors of the assessee. Section 11 has been amended by the Finance Act, 2013 *w.e.f.* 10.5.2013, so as to provide as under—

1. Notice to the debtor of assessee	The Central Excise Officer may, by a notice in writing, ♦ require any other person (*i.e.* debtors) from whom money is due (or is to become due subsequently) to such person (*i.e.* assessee), ♦ to pay to the credit of the Central Government either forthwith upon the money becoming due, or within the time specified in the notice, ♦ the money being LOWER of the following sums → Amount of total dues from assessee; or → the amount owed by the debtor to the assessee.
2. Compliance by the person to whom such notice is issued	Every person to whom such notice is issued shall be bound to comply with such notice. Where such notice is issued to a post office, banking company or an insurer, it shall not be necessary to produce any pass book, deposit receipt, policy etc. for the purpose of any entry, endorsement etc. being made before payment is made.
3. If fails, the person to whom such notice is issued will be deemed to be 'an assessee in default'	Where the person to whom such notice is issued, fails to make the said payment, he shall, (in respect of the amount in notice) be deemed to be a person from whom money is due, and all the consequences under this Act shall follow. *Note*: In other words, on failure, the debtor shall be deemed to be an assessee-in-default

4. Service of 'statement' containing details regarding duty not levied/short levied etc. shall be deemed to be service of show cause 'notice' [Section 11A(7A)]

4.1 *AMENDMENT IN SECTION 11A:* Finance Act, 2013, has amended section 11A and inserted therein a new sub-section (7A) which provides as under—

♦ Subsequent to serving of any notice or notices under sub-section (1) or (3) or (4) or (5),

♦ Central Excise Officer may, serve, a "statement" containing details of duty not levied or paid or short levied or short paid or erroneously refunded for the subsequent period,

♦ and it shall be deemed to be a service of "notice" under sub-section (1) or (3) or (4) or (5).

CONDITION: Such "statement" shall be deemed to be a "notice" **provided that** the grounds relied upon for the subsequent period are the same as are mentioned in the earlier notice or notices.

IMPACT OF AMENDMENT: The limitation period of one year or five years, as the case may be, would (now) be computed from the date of service of such "statement".

4.2 *APPLICABILITY:* This amendment will take effect from 10.5.2013.

5. Now it is possible to provisionally attach property belonging to the person to whom notice is served under ANY sub-sections of section 11A [Section 11DDA]

5.1 *AMENDMENT IN SECTION 11DDA:* Finance Act, 2013, has amended section 11DDA so as to enable the Central Excise Officer to attach the property belonging to the person on whom a notice is served under any of the sub-sections of section 11A.

Thus, *w.e.f.* 10.5.2013, provisional attachment is possible in the following cases—

11A(1)	*i.e.* issuance of notice in case of non/short levy, non/short payment or erroneous refund of excise duty other than on account of fraud etc.
11A(3)	*i.e.* issuance of another notice if the amount paid in pursuance of notice issued under sub-section (1), falls short than the amount actually payable;
11A(4)	*i.e.* issuance of notice in case of non/short levy, non/short payment or erroneous refund of excise duty on account of fraud etc.
11A(5)	*i.e.* issuance of notice where during the course of audit, investigation or verification, it is found that any duty has not been levied/paid or short levied/paid or erroneously refunded by reason of fraud, collusion, or any misstatement etc., but the details relating to the transactions are available in the specified records.

5.2 *APPLICABILITY:* This amendment will take effect from 10.5.2013.

6. For the purpose of making application before Advance Ruling Authority an “activity” to include any “new business proposed to be undertaken” [Section 23A]

6.1 *AMENDMENT IN SECTION 23A:* Finance Act, 2013, has, expended the term “activity” so as to include “any new business of production or manufacture proposed to be undertaken by the existing producer or manufacturer”

IMPACT OF AMENDMENT: This amendment implies that any existing producer or manufacturer may also seek advance ruling in relation to any new business of production or manufacture proposed to be undertaken by him.

6.2 *APPLICABILITY:* This amendment will take effect from 10.5.2013.

7. The scope of admissibility of application before Advance Ruling Authority is extended to include ‘credit of service tax’ [Section 23C]

7.1 *AMENDMENT IN SECTION 23C:* Existing provisions of sub-section (2) of section 23C provides for the admissibility of application for advance ruling, *inter-alia*, for credit of excise duty paid or deemed to have been paid.

Finance Act, 2013, has expended the scope of admissibility so as to include “credit of service tax paid or deemed to have been paid on input services”.

7.2 *APPLICABILITY:* This amendment will take effect from 10.5.2013.

8. Extension of stay period in case of Tribunal by another 185 days [Section 35C(2A)]

8.1 *EXISTING PROVISIONS:* Where CESTAT grants a stay in an appeal filed before it, it shall dispose of the appeal **(where it is possible to do so)** within a period of 180 days from the date of stay order. In case the appeal is not disposed of within 180 days from the date of stay order, the stay order stands vacated automatically **[First and second provisos to section 35C(2A)].**

8.2 *INSERTION OF 3RD PROVISO:* The Finance Act, 2013 has inserted third proviso to section 35C(2A) to provide that CESTAT may further extend the period of stay, by not more than 185 days if—

1.	An application is made in this behalf by a party; and
2.	Tribunal is satisfied that the delay in disposing of the appeal is not attributable to such party.

In case the appeal is not disposed of within the total period of 365 days (180+185) from the date of the stay order, the stay order shall, on the expiry of 365 days, stand vacated automatically.

8.3 *APPLICABILITY:* This amendment will take effect from 10.5.2013.

9. Monetary limit of existing Rs.10 lakh is increased to Rs.50 lakh in case SINGLE Bench of Tribunal hear and dispose of appeals [Section 35D(3)]

9.1 *AMENDMENT TO SECTION 35D(3):* The Finance Act, 2013 has increased the monetary limit of Rs.10 lakh to Rs.50 lakh in case a SINGLE Bench of Tribunal hear and disposed of the appeal.

Therefore, now, SINGLE Bench of CESTAT has been empowered to hear and dispose of appeals where—

- the duty involved, or
- the difference in duty involved, or
- the amount of fine or penalty involved

is upto Rs.50 lakh.

9.2 *APPLICABILITY:* This amendment will take effect from 10.5.2013.

10. Sending orders, summons etc. through 'Speed Post' or 'Approved Courier' is also authorised mode of delivery [Section 37C]

10.1 *AMENDMENT TO SECTION 37C:* The Finance Act, 2013 has amended section 37C so as include 'Speed Post' and 'Approved Courier' into the existing modes of authorised delivery of orders, summons etc.

Therefore, after amendment in section 37C(1)(*a*), a decision, order, summons or notice can be served by any of the following modes of delivery—

Mode—1.	by tendering them;
Mode—2.	by registered post with acknowledgment due;
Mode—3.	**by speed post with proof of delivery [*w.e.f.* 10.5.2013];**
Mode—4.	**by courier approved by the CBEC [*w.e.f.* 10.5.2013].**

10.2 *APPLICABILITY:* This amendment will take effect from 10.5.2013.

11. Summary of important Notifications issued upto 31st October, 2013

<table>
<tr><th>Notification</th><th>Summarised Provisions</th></tr>
<tr><td>Interest period in case of refund shall commence after 3 months of refund application

N.N. 02/2013
[w.e.f. 1.3.2013]</td><td>Rule 7(5) has been substituted to provide that the interest on refund arising out of finalization of provisional assessment will be computed—
♦ FROM the date immediately after the expiry of 3 months from the date of receipt of refund application
♦ TILL the date of refund of such duty.
Note: Earlier such refund was computed from the first day of the month succeeding the month for which it was determined.</td></tr>
<tr><td>If amount payable under rule 3 is not paid, it shall be recovered as per rule 14.

N.N. 03/2013
[w.e.f. 1.3.2013]</td><td>If the manufacturer of goods or the provider of output service fails to pay the amount payable under sub-rule (5), or (5A) or (5B) of rule 3, it would be recovered, in the manner provided under rule 14, for recovery of CENVAT credit wrongly taken.
Where—
♦ Rule 3(5), requires the payment of CENVAT credit if the ‘input’ or ‘capital goods’ are removed as such.
♦ Rule 3(5A), requires the payment of CENVAT credit if the ‘capital goods’ are removed after being used.
♦ Rule 3(5B), requires the payment of CENVAT credit if the ‘input’ or ‘capital goods’ are written off.</td></tr>
<tr><td>Resident public limited company can take benefit of Advance Ruling

N.N. 04/2013
[w.e.f. 1.3.2013]</td><td>The scope of advance ruling has been expanded to additionally notified resident public limited companies. These companies can now apply and obtain advance ruling in case of specified matters relating to central excise.
Where—
♦ Public limited company means a company (which is not a private company) having paid-up capital of Rs.5 lakh or more. It also includes a private company which is a subsidiary of a company which is not a private company.
Note: Earlier only public sector companies were eligible for obtaining advance ruling. Public sector company means any corporation established by or under any Central, State or Provincial Act or a Government company as per section 617 of Companies Act, 1956.</td></tr>
<tr><td>Provisions of section 28AAA of Customs Act, 1962 made applicable to Central Excise also
N.N 29/2012
[w.e.f. 1.3.2013]</td><td>The Central Government has provided that the provisions of section 28AAA of the Customs Act, 1962 shall be applicable in regard to like matters in respect of the duties imposed by section 3 of the Central Excise Act, 1944 subject to the necessary modifications and alterations which the Central Government considers necessary.</td></tr>
<tr><td>Duty payable on removal of capital goods is separately calculated for removal AS SUCH and AFTER USE
N.N 12/2013
[w.e.f. 27.9.2013]</td><td>Central Government has substituted existing sub-rule (5A) of rule 3 of CENVAT credit rules, 2004 with new sub-rule (5A) which provides item (a) and (b) for calculating amount payable separately in respect of ‘capital goods’ removed AFTER USE and removed AS SCRAP/WASTE. Provisions of this sub-rule are as under—
<table>
<tr><th>Removal of Capital Goods</th><th>CENVAT credit be paid</th><th></th></tr>
<tr><td>(a) After use</td><td>HIGHER of (1) and (2)
(1) Limit based on SLM % point credit :
(i) In case of computers and computer peripherals</td><td></td></tr>
<tr><td></td><td>CENVAT credit taken in respect of said ‘capital goods’</td><td>×××</td></tr>
<tr><td></td><td>Less : 10% of CENVAT credit per quarter during 1st year</td><td>×××</td></tr>
<tr><td></td><td>Less : 8% of CENVAT credit per quarter during 2nd year</td><td>×××</td></tr>
<tr><td></td><td>Less : 5% of CENVAT credit per quarter during 3rd year</td><td>×××</td></tr>
</table></td></tr>
</table>

	Less : 1% of CENVAT credit *per quarter* during 4^{th} & 5^{th} year ××× ××× (*ii*) *In case of other assets* CENVAT credit taken in respect of said 'capital goods' ××× *Less* : 2.5% of CENVAT credit *per quarter* during use period ××× ××× ***Note*:** Above calculations will be based on SLM basis. Part of quarter will be treated as full. **(2) Duty on transaction value:** Transaction value × Rate of Duty **(*b*) As scrap or waste** — **Duty on transaction value:** Transaction value × Rate of Duty *Note*: Earlier, credit to be paid for removal of 'capital goods' as scrap or waste was as per (*a*) above.
Exemption from registration is available to an unregistered place used solely for affixing stickers etc. ***N.N 11/2013*** *[w.e.f. 2.8.2013]*	An exemption from registration under rule 9 is hereby given by the CBEC to unregistered premises used solely for affixing a sticker or re-printing or re-labeling or re-packing of pharmaceutical products [falling under Chapter 30 of the First Schedule to CETA, 1985] with lower ceiling price. This would however, be subjected to the conditions specified in the N.N. 22/2013-Central Excise dated 29.7.2013 exempting the pharmaceutical products from payment of Central Excise duty.
Deemed registration in case of godown or DFS in certain case ***N.N 9/2013*** *[w.e.f. 23.5.2013]*	A godown or retail outlet of a Duty Free Shop shall be deemed to be registered as 'warehouse' under rule 9 of Central Excise Rules, 2002, if such place is appointed or licensed under sections 57 or 58 of the Customs Act, 1962.
Warehousing to DFS at airport and sale therefrom to the passengers arriving or departing ***N.N 7/2013*** *[w.e.f. 23.5.2013]*	The Central Government extended the facility of removal of all excisable goods from the factory of production, intended for : → storage in a godown or Duty Free Shop of International Airport, appointed or licensed as "warehouse" under Section 57 or 58 of the Customs Act, 1962 and → for sale therefrom, against foreign exchange to passengers going out of India or to the passengers or members of crew arriving from abroad, The above facility will be subject to limitations, conditions and safeguards as may be specified by the CBEC in terms of rule 20(2) of Central Excise Rules, 2002.

2. CUSTOMS

12. Central Govt. is empowered to prohibit the import/export of goods for protecting 'Designs' and 'Geographical Indications' also [Section 11(2)(n)]

12.1 *AMENDMENT IN SECTION 11(2):* Section 11(1) of the Customs Act, 1962 empowers the Central Government to prohibit either absolutely or conditionally the import or export of specified goods, for any of the purposes specified in various clauses of sub-section (2) of section 11.

Clause (*n*) of sub-section (2) provided that importation/exportation of goods may be prohibited for the protection of patents, trademarks and copyrights.

The Finance Act, 2013 has expanded the scope of clause (*n*) to include **designs and geographical indications** so as to provide for protection of these legal rights also.

EFFECT OF AMENDMENT: Central Government can (now) prohibit the import/export of specified goods for protection of designs and geographical indications also.

12.2 *APPLICABILITY:* This amendment will take effect from 10.5.2013.

13. 'Refund' and 'Recovery' shall not made if the amount involved is less than Rs.100 [Section 27(1) and 28(1)]

13.1 *AMENDMENT IN SECTION 27(1):* By inserting 3rd proviso to section 27(1), the Finance Act, 2013 has provided that where the refund claim is less than Rs.100, the same shall not be refunded.

13.2 *AMENDMENT IN SECTION 28(1):* Like section 27(1), Finance Act, 2013 has inserted 3rd proviso to section 28(1), which provides that where the amount of recovery is less than Rs.100, the proper officer will not serve the show cause notice. Therefore, where the amount of recovery is less than Rs.100, the same cannot be recovered.

13.3 *APPLICABILITY:* This amendment will take effect from 10.5.2013.

14. Provisional attachment of property is possible in case of a person to whom SCN is issued for non/short levy on account of FRAUD etc. [Section 28BA(1)]

14.1 *EXISTING PROVISION:* Section 28BA(1), *inter-alia*, provides for the provisional attachment of property by Proper Officer, for the purpose of protecting the interest of the revenue, during the pendency of any proceedings under section 28(1).

Thus, before amendment —

*Provisional attachment was **possible***	In case of a person to whom Show Cause Notice (SCN) has been served for short-levy/non-levy etc. of customs duty or interest, for any reason **other than** the reasons of collusion or any wilful mis-statement or suppression of facts; **[*i.e.* SCN in non-fraud cases—section 28(1)]**
*Provisional attachment was **NOT possible***	In case of a person to whom SCN has been served for short-levy/non-levy etc. of customs duty or interest, by reason of collusion or any wilful mis-statement or suppression of facts; **[*i.e.* SCN in fraud cases—section 28(4)]**

14.2 *AMENDMENT IN SECTION 28BA(1):* Section 28BA(1) has been amended so as to enable a Proper Officer to attach the property belonging to any person on whom notice is served under **sub-section (1) or sub-section (4) of section 28 (*i.e.* SCN in non-fraud as well as fraud cases)**.

14.3 *APPLICABILITY:* This amendment will take effect from 10.5.2013.

15. For the purpose of making application before Advance Ruling Authority an "activity" to include any "new business of import/export proposed to be undertaken" by the importer/exporter [Section 28E]

5.1 *AMENDMENT IN SECTION 28E:* Finance Act, 2013, has, expended the term "activity" so as to include "any new business of import or export proposed to be undertaken by the existing importer or exporter"

IMPACT OF AMENDMENT: This amendment implies that any existing importer or exporter may also seek advance ruling in relation to any new business of import or export proposed to be undertaken by him.

15.2 *APPLICABILITY:* This amendment will take effect from 10.5.2013.

16. CBEC empowered to permit landing of vessel and aircraft at any place other than custom port/airport [Section 29(1)]

16.1 *EXISTING PROVISION:* Section 29(1), provides that the person-in-charge of a vessel/aircraft entering India from any place outside India could NOT permit the vessel or aircraft to call or land for the first time while it is carrying passengers or cargo brought in that vessel or aircraft **at any place other than a customs port or a customs airport**.

16.2 *AMENDMENT IN SECTION 29(1):* Finance Act, 2013, has, amended the provisions of section 29(1) so as to empower the CBDT to permit landing of vessel or aircraft at any place other than custom port/airport.

16.3 *APPLICABILITY:* This amendment will take effect from 10.5.2013.

17. E-filing of import/export manifest mandatory [Section 30(1) & 41(1)]

17.1 *AMENDMENT:* Finance Act, 2013, has, amended the provisions of section 30(1) and 41(1) to provide for electronic filing of import/export manifest. It also provides that the Commissioner of Customs may, in cases where it is not feasible to deliver the import/export manifest electronically, allow the same to be delivered in any other manner.

17.2 *APPLICABILITY:* This amendment will take effect from 10.5.2013.

18. Import duty to be paid in 2 days as against 5 days [Section 47(2)]

18.1 *AMENDMENT:* Finance Act, 2013 has amended section 47(2) so as to reduce the interest free period for payment of import duty **from existing 5 days to 2 days**.

After amendment, section 47(2) requires that the import duty assessed on goods entered for the home consumption should be paid within **2 days** (excluding holidays) of the determination of such duty amount. In case he fails to do so, he shall be required to pay interest on the duty till the time he actually pays the duty and clears the goods.

18.2 *APPLICABILITY:* This amendment will take effect from 10.5.2013.

19. Storage of imported goods (without warehousing) is possible for 30 days [Sec. 49]

19.1 *EXISTING PROVISION:* As per provisions of section 49, where any imported goods entered for home consumption cannot be cleared within a reasonable time, the same may, (pending their clearance), be permitted to be stored in a public warehouse/private warehouse. Such goods shall not be deemed to be warehoused goods for the purpose of the Customs Act and accordingly warehousing provisions shall not apply to such goods. This is also called warehousing without warehousing. This section nowhere specifies any time limit for such storage.

19.2 *AMENDMENT:* Finance Act, 2013 has amended this section *w.e.f.* 10.5.2013, so as to provide a period of 30 days for storage of goods in a warehouse.

However, the Commissioner of Customs may extend the period of storage for a further period not exceeding 30 days at a time.

20. Export of warehoused goods without payment of import duty is allowed on the basis of "postal export document" also [Section 69(1)(*a*)]

20.1 *AMENDMENT:* Finance Act, 2013 has amended the provisions of section 69(1)(*a*). After amendment, this section provides that any warehoused goods might be exported to a place outside India without payment of import duty provided that—

1.	a shipping bill, or
2.	a bill of export, or
3.	**postal export documents [as referred to in section 82] [*w.e.f.* 10.5.2013]**

had been presented in respect of such goods in the prescribed form.

21. Certain offences to be non-bailable [Section 104(6)]

21.1 *EXISTING PROVISION:* As per section 104(6), all offences under customs law are bailable.

21.2 *AMENDMENT:* Finance Act, 2013 has amended this section *w.e.f.* 10.5.2013 and substituted the existing sub-section (6) with the new sub-section (6) and (7). By doing so, certain offences have been specified as non-bailable and rest would continue to be bailable.

♦ Offences **non-bailable** are—

(a)	Evasion or attempted evasion of duty exceeding Rs.50 lakh; or
(b)	Prohibited goods [notified under section 11 also notified under section 135(1)(*i*)(*C*)]; or
(c)	Import/export of any goods which have not been declared in accordance with the provisions of this Act and the market price of which exceeds Rs.1 crore; or
(d)	Fraudulently availing of or attempt to avail of drawback or any exemption from duty provided under this Act, if the amount of drawback or exemption from duty exceeds Rs.50 lakh.

♦ Offences **bailable :** All other offences will remain bailable.

22. Tribunal empowered to grant stay by another 185 days [Section 129B(2A)]

22.1 *EXISTING PROVISIONS:* Where CESTAT grants a stay in an appeal filed before it, it shall dispose of the appeal **(where it is possible to do so)** within a period of 180 days from the date of stay order. In case the appeal is not disposed of within 180 days from the date of stay order, the stay order stands vacated automatically **[First and second provisos to section 129B(2A)].**

22.2 *INSERTION OF 3RD PROVISO:* Finance Act, 2013 has inserted third proviso to section 129B(2A) to provide that CESTAT may further extend the period of stay, by not more than 185 days if—

1.	An application is made in this behalf by a party; and
2.	Tribunal is satisfied that the delay in disposing of the appeal is not attributable to such party.

In case the appeal is not disposed of within the total period of 365 days (180+185) from the date of the stay order, the stay order shall, on the expiry of 365 days, stand vacated automatically.

22.3 *APPLICABILITY:* This amendment will take effect from 10.5.2013.

23. Monetary limit of existing Rs.10 lakh is increased to Rs.50 lakh in case SINGLE Bench of Tribunal hear and dispose of appeals [Section 129C(4)]

23.1 *AMENDMENT TO SECTION 129C(4):* The Finance Act, 2013 has increased the monetary limit of Rs.10 lakh to Rs.50 lakh in case a SINGLE Bench of Tribunal hear and disposed of the appeal.

Therefore, now, SINGLE Bench of CESTAT has been empowered to hear and dispose of appeals where—

♦ *Value of goods*	*i.e.* the value of goods confiscated under section 125; or
♦ *Amount of duty*	*i.e.* in any other disputed case before CESTAT (other than case of determination of rate of duty or value of goods for the purpose of assessment) the difference in duty or the duty involved; or
♦ *Amount of penalty*	*i.e.* the amount of any fine or penalty involved

is upto **Rs.50 lakh.**

23.2 *APPLICABILITY:* This amendment will take effect from 10.5.2013.

24. Offence involving evasion of duty exceeding Rs.50 lakh (earlier Rs.30 lakh) to attract imprisonment of 7 years [Sub-clause (C) and (D) of section 135C(1)(i)]

24.1 *AMENDMENT TO SECTION 135C(1)(i):* Section 135(1)(*i*) stipulates the penal provisions applicable to a person who has committed any of the offences specified therein. The offender is punishable with imprisonment of upto 7 years if the amount of duty evasion or drawback availed fraudulently exceeds Rs. 30 lakh.

The Finance Act, 2013 has increased such monetary limit of Rs.30 lakh to Rs.50 lakh. After such amendment, the offender who commits any of the offence specified under section 135, is punishable with an imprisonment for a term which may extend upto 7 years and with fine in case of an offence relating to—

1.	evasion or attempted evasion of duty exceeding **Rs.50 lakh** (earlier, Rs.30 lakh); and
2.	fraudulently availing of (or attempting to avail of) drawback or any exemption from duty provided under the Customs Act in connection with export of goods, if the amount of drawback or exemption from duty exceeds **Rs.50 lakh** (earlier, Rs.30 lakh)

24.2 *APPLICABILITY:* This amendment will take effect from 10.5.2013.

25. Introduction of 'Garnishee Proceedings' to customs [Section 142(1)]

INTRODUCTION OF 'GARNISHEE PROCEEDINGS' IN SECTION 142(1): **'Garnishee proceeding'** means recovery of monies from third person *i.e.* debtors of the assessee. Section 142(1) has been amended by the Finance Act, 2013 *w.e.f.* 10.5.2013, so as to provide as under —

1. Notice to the debtor of assessee	The Proper Officer may, by a notice in writing, ♦ require any other person (*i.e.* debtors) from whom money is due (or is to become due subsequently) to such person (*i.e.* assessee), ♦ to pay to the credit of the Central Government either forthwith upon the money becoming due, or within the time specified in the notice, ♦ the money being LOWER of the following sums : → Amount of total dues from assessee; or → the amount owed by the debtor to the assessee.
2. Compliance by the person to whom such notice is issued	Every person to whom such notice is issued shall be bound to comply with such notice. Where such notice is issued to a post office, banking company or an insurer, it shall not be necessary to produce any pass book, deposit receipt, policy etc. for the purpose of any entry, endorsement etc. being made before payment is made.

3. If fails, the person to whom such notice is issued will be deemed to be 'an assessee in default'	Where the person to whom such notice is issued, fails to make the said payment, he shall, (in respect of the amount in notice) be deemed to be a person from whom money is due, and all the consequences under this Act shall follow. *Note*: In other words, on failure, the debtor shall be deemed to be an assessee-in-default

26. The scheme for duty deferment for adjustment against DDB has been discontinued [Section 143A]

Section 143A providing option for duty deferment for adjustment of duty payable against drawback has been omitted.

27. Removal of duty liability on any sample of goods consumed/destroyed during the course of testing/examination [Section 144(3)]

27.1 *EXISTING PROVISION:* Section 144 gives powers to proper officer to take samples for examination and testing thereof for the purpose of ascertaining their duty.

Sub-section (3) stipulates that no duty shall be chargeable on any sample of goods so taken which is consumed or destroyed during the course of any test or examination thereof, if such duty amounts to Rs.5 or more.

27.2 *AMENDMENT:* Finance Act, 2013, has omitted the words "if such duty amounts to Rs.5 or more" from the aforesaid section. Consequently, there shall be no duty liability on a sample of goods consumed or destroyed during the course of testing/examination.

27.3 *APPLICABILITY:* This amendment will take effect from 10.5.2013.

28. "Customs House Agents" to be termed as "Customs Brokers"

Considering the global practice and internationally accepted nomenclature, nomenclature of "customs house agents", wherever used in the Customs Act, 1962, has been replaced with "customs brokers".

29. Person who has committed offence under the Finance Act, 1994 also disqualified to act as an authorized representative [Section 146A(4)(*b*)]

AMENDMENT: Section 146A(4)(*b*) specifies certain persons who are disqualified to act as an authorised representative. Finance Act, 2013, has amended this section. After amendment, a person will be disqualified to act as an authorised representative if he was convicted of an offence connected with any proceeding:

1.	under the Customs Act, 1962,
2.	under Central Excise Act, 1944, or
3.	under Gold (Control) Act, 1968 or
4.	**under Finance Act, 1994 [*w.e.f.* 10.5.2013]**

30. Expansion of scope of liability of the owner/importer/exporter [Section 147(3)]

30.1 *EXISTING PROVISION:* As per section 147, anything required to be done by the owner/importer/exporter of any goods can be done by his agent. However, the owner/importer/exporter shall be liable for all the acts of his agent.

Further, agent would be deemed to be the owner/importer/exporter of such goods for the purposes of the Customs Act, 1962.

30.2 *AMENDMENT:* Finance Act, 2013 has amended sub-section (3) of section 147 to enhance the scope of the liability of such agents. It now casts equal responsibility on agents for making correct self-assessment.

Summary of important Notifications issued upto 31st October, 2013

Notification	*Summarised Provisions*
Electronic payment of customs duty ***N.N. 83/2012*** *[w.e.f. 17.9.2012]*	In conformity with the powers given under first proviso to section 47(2) of the Customs Act, 1962 the Central Government hereby specifies the class or classes of importers who shall pay customs duty electronically, namely : (*i*) Importers registered under Accredited Clients Programme. (*ii*) Importers paying customs duty of Rs.1,00,000 or more per bill of entry.
Monetary baggage limit in case of crew member is increased from Rs. 600 to Rs. 1,500 ***N.N. 25/2013*** *[w.e.f. 1.3.2013]*	Rule 10(1) and (2) of baggage rules, 1998, have been amended so as to allow a crew member of a vessel/aircraft to bring items like chocolates, cheese, cosmetics and other petty gift items for their personal or family use while returning from a foreign journey upto a value of **Rs. 1,500** (earlier Rs.600).
Monetary baggage limit for jewellery is increased 5 times ***N.N. 25/2013*** *[w.e.f. 1.3.2013]*	Rule 6 and 8 of baggage rules, 1998 have been amended so as to increase the monetary limit of jewellery as under— *In case of Gentleman*: Upto Rs. **50,000 [***earlier* Rs. 10,000**]** *In case of Lady*: Upto Rs. **1,00,000 [***earlier* Rs. 20,000**]**
Customs Brokers Licensing Regulations, 2013 ***N.N. 65/2013*** *[w.e.f. 21.6.2013]*	CBEC has issued Customs Brokers Licensing Regulations, 2013. Salient features of these regulations are given below— ♦ These regulations provide the eligibility of applicants of being 'Customs Brokers'; ♦ Procedure of making application; ♦ Examination of application done by DGICCE; ♦ Issuance and Form of licence; ♦ Period and validity of licence; ♦ Obligations of Customs Broker; ♦ Implications on change of constitution of company, firm etc.
N.N. 84/2013 *[w.e.f. 19.8.2013]*	In the Baggage Rules, 1998, in Annex I, a new entry (*see* below) is inserted. "6. Flat Panel (LCD/LED/Plasma) Television."
N.N. 90/2013 *[w.e.f. 29.8.2013]*	New declaration form [*i.e.* Form No. l] is prescribed for passengers who come to India for declaring their accompanied baggage.

3. SERVICE TAX

31. Negative List—No service tax on courses run by ITI/ITC affiliated to State Council of Vocational Training [Section 65B(11)]

31.1 *EXISTING PROVISION:* Clause (*l*) of section 66D [*i.e.* Negative List] *inter-alia* covers services by way of education as a part of an **“approved vocational education course**”. Therefore, no service tax is levied on such education.

Approved vocational education course is defined under section 65B(11), which includes the following courses—

1.	Courses offered by ITI/ITC affiliated to National Council of Vocational Training;
2.	Modular Employable Skill Course;
3.	Courses run by an institute affiliated to the National Skill Development Corporation.

31.2 *AMENDMENT:* Finance Act, 2013 has amended section 65B(11), as under—

1.	Courses offered by ITI/ITC affiliated to National **or State** Council of Vocational Training; [**“State” is inserted *w.e.f.* 10.5.2013 by Finance Act, 2013]**
2.	Modular Employable Skill Course;
3.	~~Courses run by an institute affiliated to the National Skill Development Corporation~~. **[Deleted *w.e.f.*10.5.2013 by Finance Act, 2013]**

COMPARISION: Comparative analysis of taxability of various vocational courses before and after amendment is as under—

Sr. No.	*Type of vocational course*	*Before 10.5.2013*	*On or after 10.5.2013*
1.	Courses offered by ITI/ITC affiliated to National Council of Vocational Training;	Exempt	Exempt
2.	Courses offered by ITI/ITC affiliated to **State** Council of Vocational Training;	**Taxable**	**Exempt**
3.	Modular Employable Skill Course;	Exempt	Exempt
4.	Courses run by an institute affiliated to the National Skill Development Corporation.	**Exempt**	**Taxable**

31.3 *APPLICABILITY:* This amendment will take effect from 10.5.2013.

32. Negative List— No service tax on any process of “Manufacture” under MTP Act, 1955 [Section 65B(40)]

32.1 *EXISTING PROVISION:* Clause (*f*) of section 66D [*i.e.* Negative List] covers any process amounting to manufacture or production of goods. Section 65B(40) defines the term ‘manufacture and production of goods’ as under—

1. Central excise	*i.e.* a process on which excise duty is leviable under section 3 of the Central Excise Act, 1944
2. State excise	*i.e.* any process amounting to manufacture of (*i*) alcoholic liquors for human consumption; (*ii*) opium; (*iii*) Indian hemp and (*iv*) other narcotic drugs on which duties of excise are leviable under any State Act for the time being in force.

32.2 *AMENDMENT:* Finance Act, 2013 has amended section 65B(40), so as to include a process on which excise duty is leviable under the Medicinal and Toilet Preparations (Excise Duties) Act, 1955.

Thus, now service tax is not leviable on a process on which excise duty is leviable under the Medicinal and Toilet Preparations (Excise Duties) Act, 1955.

32.3 *APPLICABILITY:* This amendment will take effect from 10.5.2013.

33. Negative List— All "testing" activities including 'seed testing' relating to agriculture, are not liable to service tax [Section 66D(*d*)(*i*)]

AMENDMENT: Sub-clause (*i*) of Section 66D(*d*) [*i.e.* Negative list], *inter alia*, includes only the "seed testing" directly related to production of any agricultural produce. Consequently, other type of testing activities directly related to production of any agricultural produce (like soil testing, animal feed testing, testing of samples from plants or animals, for pests and disease causing microbes etc.) become liable to service tax.

The Finance Act, 2013 (*w.e.f.* 10.5.2013) has expanded the scope of the said negative list entry by deleting the word **"seed"**. As a result, all types of testing activities which are directly related to production of any agricultural produce have been covered under the negative list.

34. SCN issued by invoking extended period of limitation, if not found sustainable, to be deemed to be a SCN issued for a period of 18 months [Section 73(2A)]

34.1 *EXISTING PROVISION*: If the charges for fraud, suppression etc. are NOT established, before the Appellate Authority or Tribunal or Court, the consequential effects would be—

1.	The extended period of 5 years cannot be invoked and if the notice is issued for extended period, it would be quashed;
2.	Since the notice is quashed, entire demand raised in the show cause notice would also be quashed.

Thus, the Central Excise Officer could not determine the demand even for the normal period of limitation of 18 months.

34.2 *AMENDMENT*: In order to plug this lacuna, the Finance Act, 2013 (*w.e.f.* 10.5.2013) has inserted new sub-section (2A) to section 73. It provides that in cases where the Department has raised a demand by invoking the extended period of limitation (*i.e.* 5 years), and the Appellate Authority or Tribunal or Court concludes that extended period cannot be invoked because the charges for fraud etc. are not established, the Central Excise Officer can determine the service tax liability for the normal period of limitation *i.e*, the last 18 months and raise the demand accordingly.

35. Penalty for failure to obtain registration, will be maximum of Rs.10,000 [Section 77(1)(*a*)]

35.1 *EXISTING PROVISION*: If a person fails to obtain registration in accordance with provisions of section 69, he is be liable to a penalty of Rs.200 per failure day or Rs. 10,000, whichever is HIGHER.

35.2 *AMENDMENT*: Finance Act, 2013 has amended this section so as to remove such daily penalty of Rs.200 per failure day. Therefore, *w.e.f.* 10.5.2013, failure to obtain registration, would result maximum penalty of Rs.10,000.

36. Now director, managers, secretary or other officer to face personal penalty in certain cases [New section 78A]

36.1 *NEW SECTION*: Finance Act, 2013 has introduced a new section 78A. This section makes a director, manager, secretary or other officer of the company personally liable to a penalty upto Rs.1,00,000 in case of certain specified contraventions committed by the company. Other details are as under—

1. Who shall be personally liable	Every director, manager, secretary or other officer of the company, ♦ who was *in-charge* of the company *and* ♦ was responsible for the *conduct of business* of such company at the time of commitment of any of the specified contraventions *and* ♦ was *knowingly* concerned with such contravention.
2. What are the 'specified contraventions'	The 'specified contraventions' are as under— *1. Evasion*: Evasion of service tax; or *2. Improper invoicing etc.:* Issuance of invoice, bill or challan without provision of taxable service in violation of the rules made under the provisions of Chapter V; or *3. Wrong availment/utilisation of CENVAT:* Availment and utilisation of credit of taxes or duty without actual receipt of taxable service or excisable goods either fully or partially in violation of the rules made under the provisions of Chapter V; or *4. Non-payment of tax within 6 months:* Failure to pay any amount collected as service tax to the credit of the Central Government beyond a period of 6 months from the date on which such payment becomes due.
3. Amount of penalty	Not exceeding Rs. 1,00,000.

36.2 *APPLICABILITY:* This new section will take effect from 10.5.2013.

37. Tribunal empowered to condone the delay in filing of an appeal by the assessee [New section 86(5)]

37.1 *EXISTING PROVISION*: Section 86(5) empowers the Appellate Tribunal to condone the delay in filing an appeal/memorandum of 'cross-objection' in the following cases:

♦ *ORIGINAL APPEAL FILED BY CCE OR CEO:* Appellate Tribunal is empowered admit an appeal which is filed (on the directions of Committee of CCCE/CCE) by the CCE or a CEO, even after the expiry of the statutory period (*i.e.* 4 months) for filing the same, if it (*i.e.* Tribunal) is satisfied that there was sufficient cause for such delay.

♦ *MEMORANDUM OF 'CROSS-OBJECTIONS' FILED BY CCE OR CEO OR ASSESSEE:* Tribunal is also empowered to permit the filing of a memorandum of cross-objections by the CCE or CEO or assessee after the expiry of the statutory period (*i.e.* 45 days) for filing the same, if it is satisfied that there was sufficient cause for such delay.

However, there was no provision enabling the Tribunal to condone the delay in filing of an appeal by the assessee.

37.2 *AMENDMENT*: The Finance Act, 2013 has amended section 86(5) [*w.e.f.* 10.5.2013] so as to empower the Appellate Tribunal to also admit an appeal filed by the assessee after the expiry of the statutory period for filing the same, (*i.e.* 4 months) if it is satisfied that there was sufficient cause for such delay.

38. Amendments in punishments for offences and categorization of “cognizable” and “non-cognizable” offences [section 89 and 90]

38.1 *AMENDMENT IN SECTION 89*: Section 89 prescribes prosecution provisions in relation to certain offences. Comparative analysis before and after amendment is as under—

Nature of offence	***Imprisonment BEFORE 10.5.2013***	***Imprisonment on or AFTER 10.5.2013***
CATEGORY—A : First time	If amount involved : ♦ ≤ Rs.50 lakh → upto 1 year. ♦ > Rs.50 lakh, → 6 months to 3 years.	If amount involved : ♦ ≤ Rs.50 lakh → upto 1 year. ♦ > Rs.50 lakh, → 6 months to 3 years.
CATEGORY—A : Subsequent time	Irrespective of amount involved, imprisonment of 6 months to 3 years.	Irrespective of amount involved, imprisonment of **upto 3 years.**
CATEGORY—B : First time	If amount involved : ♦ ≤ Rs.50 lakh → upto 1 year. ♦ > Rs.50 lakh, → 6 months to 3 years. **[It is cognisable]**	If amount involved : ♦ ≤ Rs.50 lakh → upto1 year. ♦ > Rs.50 lakh, → 6 months to **7 years.** **[It is cognisable]**
CATEGORY—B : Subsequent time	If amount involved : ♦ ≤ Rs.50 lakh → 6 months to 3 years. ♦ > Rs.50 lakh, → 6 months to 3 years. **[It is cognisable]**	If amount involved : ♦ ≤ Rs.50 lakh → upto 3 year. ♦ > Rs.50 lakh, → upto **7 years.** **[It is cognisable]**

Where—

CATEGORY—A, offences are as under:

1. Willful evasion of payment of service tax.
2. Availment and utilization of CENVAT credit without receipt of taxable service or excisable goods in violation of the rules thereof.
3. ♦ Maintenance of false books of account; or
   ♦ Failure to supply required information; or
   ♦ Knowingly supplying false information.

CATEGORY—B, offence is as under:

Collection of any amount as service tax but failure to pay the amount so collected to the credit of the Central Government beyond a period of **6 months** from the date on which such payment becomes due.

38.2 *COGNISABLE OFFENCES:* Finance Act, 2013 has introduced new section 90 which specifies cognizable offences. As per this section offence mentioned in ***CATEGORY—B*** above would be a cognizable offence **if** the amount not so paid exceeds Rs.50 lakh. Therefore, arrest can be made for such an offence without a warrant.

38.3 *NON-COGNISABLE OFFENCES*: Irrespective of amount involved, ***CATEGORY—A*** offences would continue be non-cognizable and bailable. Further, offence mentioned in ***CATEGORY—B*** would also be a non-cognizable offence **if** the amount not so paid **does not** exceed Rs.50 lakh.

39. Arrest powers introduced in service tax [New section 91]

39.1 *NEW SECTION 91*: Like Central Excise Act, Finance Act, 2013, has introduced section 91 containing powers to arrest under service tax. Provisions of section 91 are as under—

(i) WHO CAN ARREST? The Commissioner of Central Excise by general or special order authorize any officer of Central Excise, not below the rank of Superintendent to arrest a person.

(ii) WHO CAN BE ARRESTED? A person who has committed any of the offences specified under section 89(1) and the amount involved in the offence exceeds Rs.50 lakh.

(iii) WHEN CAN ARREST BE ORDERED? The Commissioner of Central Excise can order arrest if he has reason to believe that a person has committed the offence mentioned above.

(iv) MANNER OF ARREST– All arrests have to be carried out in accordance with the provisions of the Code of Criminal Procedure, 1973 relating to arrests.

(v) PROCEDURE IN CASE OF COGNIZABLE OFFENCE– In case of cognizable offence, every officer authorised to arrest a person has to inform the arrested person of the grounds of arrest and produce him before a magistrate within 24 hours.

(vi) PROCEDURE IN CASE OF NON-COGNIZABLE AND BAILABLE OFFENCE– The Assistant Commissioner/Deputy Commissioner is empowered to release an arrested person on bail or otherwise. For this purpose, the AC/DC will have same powers and be subject to the same provisions as an officer in charge of a police station is under Code of Criminal Procedure, 1973.

39.2 *APPLICABILITY:* This new section will take effect from 10.5.2013.

40. Introduction of Voluntary Compliance Encouragement Scheme, 2013 (VCES)

NEW SCHEME: The Finance Act, 2013 has introduced 'Service Tax Voluntary Compliance Encouragement Scheme' to encourage the service providers as well as service receivers (under reverse charge), who are either stop filers, non-filers or non-registrants or who have not disclosed their true liability in the returns filed by them to pay their tax dues without payment of interest and penalty.

The salient features of the scheme are—

1. Eligibility for VCES	*Eligible assessee:* Any person who is liable to pay tax for the period 1.10.2007 to 31.12.2012, but has not paid the same till 1.3.2013. *Non-eligible assessees:* Following persons are not eligible under VCES: ❒ A person to whom any notice or order has been issued before 1.3.2013; ❒ A person who has filed the returns disclosing his true liability but not discharged the service tax amount shown in the same; ❒ A person against whom an inquiry or investigation in respect of non/short levy or non/short payment of service tax has been initiated by way of search of premises or summons or requiring production of accounts, documents or other evidences and such inquiry/investigation is pending as on 1.3.2013. ❒ a person against whom an audit has been initiated but it is pending as on 1.3.2013.
2. Truthful declaration of dues and issuance of SCN by CCE	The defaulter is required to make a truthful declaration of his pending tax dues (between 1.10.2007 to 31.12.2012) on or before 31.12.2013. Later on, if the Commissioner has reasons to believe that the declaration made by a declarant under VCES was substantially false, he may serve a show cause notice within one year from the date of declaration.
3. Payment of at least 50% of dues	At least 50% of the declared tax dues need to be paid by December 31, 2013. The remaining half can be paid: ♦ upto 30.6.2014 without interest; or ♦ upto 31.12.2014 with interest @ 18% *p.a.* [*i.e.* payment between 1.7.2014 to 31.12.2014 would be subject to interest] ***Note*:** The amount so paid would be non-refundable.
4. Grant of immunity	On compliance with all the prescribed requirements, the declarant will be granted immunity from interest (as specified), penalties and other proceedings. The proceeding under VCES would be final and cannot be reopened by any forum.

Summary of important Notifications issued upto 31st October, 2013

Notification	*Summarised Provisions*
Resident public limited company can take benefit of Advance Ruling ***N.N. 04/2013*** *[w.e.f. 1.3.2013]*	The scope of advance ruling has been expanded to additionally notified resident public limited companies. These companies can now apply and obtain advance ruling in case of specified matters relating to service tax. Where— ♦ Public limited company means a company (which is not a private company) having paid-up capital of Rs.5 lakh or more. It also includes a private company which is a subsidiary of a company which is not a private company. *Note*: Earlier only public sector companies were eligible for obtaining advance ruling. Public sector company means any corporation established by or under any Central, State or Provincial Act or a Government company as per section 617 of Companies Act, 1956.
Lower abatement in case of commercial and certain residential units ***N.N. 09/2013*** *[w.e.f. 8.5.2013]*	Earlier, in case of construction services (both residential and commercial units), abatement of 75% of the amount charged by the service provider for providing the said taxable service was allowed subject to the following conditions: (*i*) The value of land was included in the amount charged from the service receiver and (*ii*) CENVAT credit had not been taken on inputs used for providing such service. Service tax abatement has been decreased from 75% to 70% in case of (*i*) commercial construction and (*ii*) high-end residential construction. However, abatement of 75% would continue to be available in case of residential units which fulfil **BOTH** the following **two conditions**: (i) the carpet area of the unit is *less than* 2000 square feet; and (ii) the amount charged for the unit is *less than* Rs.1 crore; Thus, residential units having carpet area of 2000 sq ft or more or where the amount charged is Rs.1 crore or more would be considered as high-end construction eligible for lower abatement of 70%.
Mega exemption will be available in respect of service of slaughtering of ALL animals ***N.N. 44/2012*** *[w.e.f. 7.8.2012]*	Mega exemption notification has been amended to provide the exemption to services by way of slaughtering of **ALL animals**. Earlier, this exemption was restricted to the slaughtering of **bovine animals** only.
'Janashree Bima Yojana and 'Aam Aadmi Bima Yojana' — exempt ***N.N. 49/2012*** *[w.e.f. 24.12.2012]*	Mega exemption notification has been amended to provide the exemption to services of life insurance business provided under following schemes— (*a*) Janashree Bima Yojana (JBY); or (*b*) Aam Aadmi Bima Yojana (AABY)
Exemption withdrawn in respect of certain services provided BY an Educational Institutions ***N.N. 03/2013*** *[w.e.f. 01.04.2013]*	Mega exemption notification exempts the services provided TO or BY an educational institution in respect of education exempted from service tax, by way of,— (*a*) auxiliary educational services; or (*b*) renting of immovable property; *w.e.f.* 1.4.2013 the word 'BY' has been deleted, therefore, if the services mentioned in (*a*) and (*b*) above, are provided TO an educational institution in respect of education exempted from service tax would only be exempt from service tax.
Restaurants with AC or air heating liable to service tax whether or not have any licence to serve	Earlier, serving of food or beverages by only those restaurants, eating joints or mess were liable to service tax which had: (*i*) the license to serve alcohol, **and** (*ii*) the facility of AC or central air-heating in its any part, at any time during the year.

<table>
<tr><td>alcohol
N.N. 03/2013
[w.e.f. 01.04.2013]</td><td>Thus, the restaurants, eating joint or mess which fulfilled any one of the two requirements or did not fulfill both the two requirements were exempt from service tax. w.e.f. 1.4.2013, the requirement (i) has been deleted, hence, only non AC/non- centrally air-heated restaurants are eligible for exemption. Rest all are liable to service tax.</td></tr>
<tr><td>Service by way of vehicle parking is now taxable in all cases
N.N. 03/2013
[w.e.f. 01.04.2013]</td><td>Earlier, services by way of motor vehicle parking to general public (i.e. unreserved), were exempt. However, services by way leasing of parking space to an entity for parking (i.e. reserved) were taxable.
w.e.f. 1.4.2013, the said exemption has been withdrawn thereby making services by way of vehicle parking to general public (unreserved parking) liable to service tax. So now services by way of vehicle parking is taxable (both reserved as well unreserved).</td></tr>
<tr><td>Service of repair and maintenance provided to Govt. in relation to aircraft is now taxable
N.N. 03/2013
[w.e.f. 01.04.2013]</td><td>Services provided to Government, a local authority or a governmental authority by way of repair or maintenance of (i) a vessel or (ii) an aircraft were exempt from service tax.
w.e.f. 1.4.2013, exemption in respect of services provided to the Government by way of repair or maintenance of an aircraft has been withdrawn. Thus, now exemption has been restricted to repair and maintenance of Government vessels only.</td></tr>
<tr><td>Exemption is not available to charitable trusts in certain cases
N.N. 03/2013
[w.e.f. 01.04.2013]</td><td>The exemption available to entity registered under section 12AA of the Income tax Act, 1961 providing services for advancement of “any other object of general public utility” up to Rs.25 lakh has been withdrawn. It means, even though an entity is ‘charitable’ as per clause (e) of section 2(15) of Income tax act, 1961 i.e. having turnover not exceeding Rs.25 lakh, yet exemption from service tax will not be available.</td></tr>
<tr><td>Service of exhibition of films in cinema hall will be exempt
N.N. 03/2013
[w.e.f. 01.04.2013]</td><td>Till 31.3.2013, temporary transfer or permitting the use or enjoyment of a copyright of cinematograph films was exempt from service tax.
However, the benefit of exemption in relation to copyrights for cinematograph films will now be available only to films exhibited in a cinema hall or theatre.
Therefore, exhibition of cinematograph films in a place other than cinema hall or theatre will be taxable.</td></tr>
<tr><td>Amendment in transportation of goods
N.N. 03/2013
[w.e.f. 01.04.2013]</td><td>w.e.f. 1.4.2013, service tax exemption available in case of transportation of petroleum and petroleum products, postal mails or mail bags and household effects by railways and vessels has been withdrawn.
Moreover, the scope of exemption to transport of goods by goods transport agency has been widened.</td></tr>
<tr><td>Amendment in transportation of goods
N.N. 06-8/2013
[w.e.f. 18.04.2013]</td><td>Exemption is granted to the following specified export promotion schemes—
♦ Focus Market Scheme;
♦ Focus Product Scheme; and
♦ Vishesh Krishi and Gram Udyog Yojana.</td></tr>
<tr><td>Service of directors are under ‘reverse charge’ mechanism
N.N. 45&46/2012
[w.e.f. 07.08.2012]</td><td>Notification No. 30/2012 dated 20.06.2012 has been amended to bring the directors fee and security charges under Reverse Charge System as under—
<table>
<tr><th>Nature of service</th><th>Who is the “person liable to pay service tax” as per rule 2(1)(d)</th><th>Portion of service tax payable by service provider (SP)</th><th>Portion of service tax payable by service receiver (SR)</th></tr>
<tr><td>Service provided by director</td><td>Service Receiver (SR)</td><td>Nil</td><td>100%</td></tr>
<tr><td>Security services provided by any individual/HUF/AOP/Firm (whether registered or not), located in the taxable territory to a body corporate, located in the taxable territory</td><td>Both</td><td>25%</td><td>75%</td></tr>
</table></td></tr>
<tr><td>Services provided by a canteen in factory,</td><td>Central Government has amended Mega Exemption Notification (N.N.25/2012) by inserting new entry 19A so as to exempt—</td></tr>
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exempt ***N.N. 14/2013*** *[w.e.f. 22.10.2013]*	♦ the services provided in relation to serving of food or beverages; ♦ by a canteen maintained in a factory covered under the Factories Act, 1948 ♦ having the facility of AC or central air-heating at any time during the year.
Services provided by NSDC, SSC etc., exempt ***N.N. 13/2013*** *[w.e.f. 10.9.2013]*	New entry 9A has been inserted in mega exemption notification so as exempt the services provided by, — (*i*) the National Skill Development Corporation (NSDC) set up by the Government; (*ii*) a Sector Skill Council (SSC) approved by the NSDC; (*iii*) an assessment agency approved by SSC or NSDC; (*iv*) a training partner approved by NSDC or SSC. IN RELATION TO— (*a*) the National Skill Development Programme implemented by the NSDC; or (*b*) a vocational skill development course under the National Skill Certification and Monetary Reward Scheme; or (*c*) any other Scheme implemented by the NSDC.
Services provided to a unit located in SEZ, exempt ***N.N. 12/2013*** *[w.e.f. 1.7.2013]*	Any specified taxable services — ♦ received by a unit located in SEZ or developer of SEZ, ♦ which are used for authorised operations, are exempt from service tax . **Note:** The exemption shall be by way of refund of service tax.